

DOCUMENT RESUME

ED 170 924

EA 011 693

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 TITLE Michigan's Tax-Expenditure Limit. Issues for Implementation. (A Section-by-Section Analysis.)
 INSTITUTION Michigan State Legislature, Lansing, Senate Fiscal Agency.
 PUB DATE Feb 79
 NOTE 78p.; Some appendices may be marginally legible
 EDRS PRICE MF01/PC04 Plus Postage.
 DESCRIPTORS *Finance Reform; Property Taxes; *State Legislation; Tables (Data); Tax Allocation; Taxes

ABSTRACT

This booklet, prepared by the Michigan senate fiscal agency, explains new amendments to the state constitution that establish tax and expenditure limitations on state and local government in the state. The purpose of the report is to help legislators implement the new law. The first part of each section analyzes the constitutional language of the amendment; the second part explains the purpose of the section; and the third part gives a summary of key implementation issues surrounding that section. An extensive appendix contains certain detailed information referenced throughout the report. It also contains a copy of the drafters' notes on the tax limitation amendment, which explains the drafters' intent in the formulation of the amendment. (Author/LD)

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MICHIGAN'S TAX-EXPENDITURE LIMIT

Issues for Implementation

[A Section-by-Section Analysis]

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Prepared by:
SENATE FISCAL AGENCY
SENATE OFFICE BUILDING
FEBRUARY, 1979

THE SENATE
LANSING, MICHIGAN



SENATE FISCAL AGENCY

February 28, 1979

Members of the Michigan Legislature:

On November 7, 1978, ballot proposal E was approved by a 52% to 48% plurality of those voting on the issue. Proposal E amended the State Constitution of 1963 by adding Sections 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34 to Article IX and amending Section 6 of Article IX. These Sections collectively establish tax and expenditure limitations on state and local government in Michigan.

Although the amendment became effective on December 22, 1978, legislation will be required for its full implementation.

To that end we have prepared this report, with the intent that it might assist you in discharging your duties as required by Section 34 of Article IX.

The format of this report should lend itself to readability. It contains a section-by-section analysis. Each section is broken into three (3) parts: (1) the Constitutional language (all new language capitalized); (2) the apparent purpose of the section; and (3) a summary of key implementation issues surrounding that section. An appendix section at the back of the report contains certain detailed information referenced throughout the report. It also contains a copy of the "Drafters' Notes" on the "Tax Limitation Amendment", which provides an explanation of the drafters' intent in the formulation of the amendment.

If you have questions regarding this report, contact myself or Ted Ferris at 373-2767. We look forward to assisting you in this endeavor.

Sincerely,

Eugene B. Farnum
Director

EBF/jmk

-Acknowledgements-

This report was authored by Messrs. Eugene Farnum, Theodore Ferris, Tom Hickner, Arnold Rich and Gary Sullenger of the Senate Fiscal Agency.

Any data presented, estimates made, and judgements offered are our own and are based upon our previous experience and research in this matter. They are the sole responsibility of the Senate Fiscal Agency and should not be attributed as a statement of intent from the Michigan Legislature, its committees, or any of its members.

Michigan's Tax-Expenditure Limit
Implementation Issues

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SEC. 25. PROPERTY TAXES AND OTHER LOCAL TAXES AND STATE TAXATION AND SPENDING MAY NOT BE INCREASED ABOVE THE LIMITATIONS SPECIFIED HEREIN WITHOUT DIRECT VOTER APPROVAL. THE STATE IS PROHIBITED FROM REQUIRING ANY NEW OR EXPANDED ACTIVITIES BY LOCAL GOVERNMENTS WITHOUT FULL STATE FINANCING, FROM REDUCING THE PROPORTION OF STATE SPENDING IN THE FORM OF AID TO LOCAL GOVERNMENTS, OR FROM SHIFTING THE TAX BURDEN TO LOCAL GOVERNMENT. A PROVISION FOR EMERGENCY CONDITIONS IS ESTABLISHED AND THE REPAYMENT OF VOTER APPROVED BONDED INDEBTEDNESS IS GUARANTEED. IMPLEMENTATION OF THIS SECTION IS SPECIFIED IN SECTIONS 26 THROUGH 34, INCLUSIVE, OF THIS ARTICLE.

Purpose: This section briefly outlines the purpose of the constitutional amendment as specified in Sections 26 through 34. It states that total Michigan taxation and spending cannot be increased without direct voter approval; the state cannot require local governments to expand current programs or to establish new programs without full state financing; and the state is prohibited from reducing the proportion of its spending in the form of aid to local governments or from shifting the tax burden to local governments.

Implementation Issues:

Section 25 is a general statement of intent relating to sections 26 through 33. It requires no implementation in and of itself other than the implementation of the subsequent sections of the amendment.

SEC. 26. THERE IS HEREBY ESTABLISHED A LIMIT ON THE TOTAL AMOUNT OF TAXES WHICH MAY BE IMPOSED BY THE LEGISLATURE IN ANY FISCAL YEAR ON THE TAXPAYERS OF THIS STATE. THIS LIMIT SHALL NOT BE CHANGED WITHOUT APPROVAL OF THE MAJORITY OF THE QUALIFIED ELECTORS VOTING THEREON, AS PROVIDED FOR IN ARTICLE 12 OF THE CONSTITUTION. EFFECTIVE WITH FISCAL YEAR 1979-1980, AND FOR EACH FISCAL YEAR THEREAFTER, THE LEGISLATURE SHALL NOT IMPOSE TAXES OF ANY KIND WHICH, TOGETHER WITH ALL OTHER REVENUES OF THE STATE, FEDERAL AID EXCLUDED, EXCEED THE REVENUE LIMIT ESTABLISHED IN THIS SECTION. THE REVENUE LIMIT SHALL BE EQUAL TO THE PRODUCT OF THE RATIO OF TOTAL STATE REVENUES IN FISCAL YEAR 1978-1979 DIVIDED BY THE PERSONAL INCOME OF MICHIGAN IN CALENDAR YEAR 1977 MULTIPLIED BY THE PERSONAL INCOME OF MICHIGAN IN EITHER THE PRIOR CALENDAR YEAR OR THE AVERAGE OF PERSONAL INCOME OF MICHIGAN IN THE PREVIOUS THREE CALENDAR YEARS, WHICHEVER IS GREATER.

FOR ANY FISCAL YEAR IN THE EVENT THAT TOTAL STATE REVENUES EXCEED THE REVENUE LIMIT ESTABLISHED IN THIS SECTION BY 1% OR MORE, THE EXCESS REVENUES SHALL BE REFUNDED PRO RATA BASED ON THE LIABILITY REPORTED ON THE MICHIGAN INCOME TAX AND SINGLE BUSINESS TAX (OR ITS SUCCESSOR TAX OR TAXES) ANNUAL RETURNS FILED FOLLOWING THE CLOSE OF SUCH FISCAL YEAR. IF THE EXCESS IS LESS THAN 1%, THIS EXCESS MAY BE TRANSFERRED TO THE STATE BUDGET STABILIZATION FUND.

THE REVENUE LIMITATION ESTABLISHED IN THIS SECTION SHALL NOT APPLY TO TAXES IMPOSED FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON BONDS, APPROVED BY THE VOTERS AND AUTHORIZED UNDER SECTION 15 OF THIS ARTICLE, AND LOANS TO SCHOOL DISTRICTS AUTHORIZED UNDER SECTION 16 OF THIS ARTICLE.

IF RESPONSIBILITY FOR FUNDING A PROGRAM OR PROGRAMS IS TRANSFERRED FROM ONE LEVEL OF GOVERNMENT TO ANOTHER, AS A CONSEQUENCE OF CONSTITUTIONAL AMENDMENT, THE STATE REVENUE AND SPENDING LIMITS MAY BE ADJUSTED TO ACCOMMODATE SUCH CHANGE, PROVIDED THAT THE TOTAL REVENUE AUTHORIZED FOR COLLECTION BY BOTH STATE AND LOCAL GOVERNMENTS DOES NOT EXCEED THAT AMOUNT WHICH WOULD HAVE BEEN AUTHORIZED WITHOUT SUCH CHANGE.

Paragraph 1 of Section 26

Purpose: Establishes the formula for setting a limit on state revenues.
The formula is:

$$\text{Tax Limit} = \text{T.L.R.} * (\text{X}) \text{ Personal Income}^{**}$$

Where:

$$* \text{T.L.R.} = \text{Tax Limit Ratio} = \frac{\text{State Revenues in 1978-79}}{\text{Michigan Personal Income in 1977}}$$

****Personal Income** = Personal income of calendar year prior to fiscal year under consideration or the average of the previous three calendar years, whichever is greater.

"State revenues" consists of all general fund and special fund revenue less federal aid, as defined in the Budget Message of the Governor for fiscal year 1978-79.

Appendix A (page 29) shows how the TLR is calculated using our estimate of FY 1978-79 state revenues. We are currently estimating that the tax limit for a given fiscal year will be equal to the product of 9.92% (TLR) multiplied times Michigan personal income (MPI) of the prior calendar year.

Appendix A also indicates that based upon our preliminary estimates of 1978 MPI and 1979-80 revenue, our current estimate of 1979-80 state revenues is at a level \$400 million below the maximum allowed by this section (9.92% of 1978 MPI).

Implementation Issues:

- (1) A major issue associated with this paragraph is the implication of not collecting, either in full or in part, the planned increase in transportation revenues resulting from the recently enacted 2 cent increase in the gas tax and the approximate 30% to 40% increase in license fees. To the extent that these taxes are not collected in 1978-79, the revenue limit will be tightened. If not collected in full (roughly \$150 million), the TLR would be decreased by approximately 1/4 of 1%.

- (2) Can the limits on taxes and expenditures automatically be adjusted to reflect a redefinition of personal income?

Personal income, as used in this section, is defined in Section 33 as that "officially reported by the United States Department of Commerce or its successor agency." This definition relies on the definition used by the federal government which is subject to revision. A small change in the definition of personal income could substantially alter the amount of revenue the state could collect under the terms of this section. More importantly, there is the question of how to deal with a downward revision in the estimates of personal income when announced by the U.S. Department of Commerce. For instance, the figures for MPI for the past several years were recently revised downward by over 3 percent (over \$2 billion in 1976). If this section had been in effect, our revenue limit would suddenly be \$200 million tighter, due to a technical change in Washington, D.C. rather than an economic change in Michigan.

- (3) A procedure must be established for determining and publishing the ratio or amount. A decision will have to be made as to where to "round-off" to (e.g. 10%, 9.9%, 9.92%, 9.923%, 9.9232% etc.)

Paragraph 2 of Section 26

Purpose: Establishes a procedure by which excess revenues are rebated when they exceed the aforementioned revenue limit by 1% or more; the excess shall be refunded on a pro rata basis according to personal income tax and single business tax liabilities. The rebate would take place on the annual returns filed following the close of the fiscal year in which the excess occurred. If the excess revenues are less than 1% of the revenue limit, the excess may be transferred to the state budget and economic stabilization fund (P.A. 76 of 1977). As alternatives, an excess of less than 1% may be rebated (in a manner determined by law), or the excess may be carried forward as surplus and added to the expenditure limit in the following year (see Sec. 28).

Implementation Issues:

- (1) What is "the liability" of Michigan taxpayers and is liability determined before or after credits (see Appendix B - page 30).
- (2) Can dedicated revenues be rebated according to personal income tax and single business tax liabilities? (e.g. Game and Fish Fund, Transportation Fund, other Special Funds)
- (3) Can, and should taxpayers who do not pay income taxes or single business taxes be allowed a rebate?

By limiting the refund to taxpayers with an income tax liability or a single business tax liability the proposal fails to recognize those individuals (mainly senior citizens and the poor) who do not pay an income tax, but do pay liquor, cigarette, sales, use, gasoline, and other taxes, as well as fees and other non-tax payments such as the purchase of lottery tickets, equally subject to the limit.

- (4) Should the budget and economic stabilization fund act (P.A. 76 of 1977) be amended to allow for a reduction in the required formula transfer to the stabilization fund to the extent that a revenue excess of less than 1% is deposited in the fund?

Paragraph 3 of Section 26

Purpose: Excludes from the revenue limit established in paragraph 1, the taxes imposed for the payment of principle and interest on general obligation bonds of the State, which have been approved by the voters in a statewide election under section 15 of Article IX. Examples of these bonds include the Vietnam Veterans' Bonus Bonds, Water Pollution Control Bonds and Public Recreation Bonds. Also excluded from the limit are taxes imposed for the payment of principle and interest on School Loan Bonds authorized under section 16 of Article IX (See Appendix C for full detail on these bonds - page 31, also, see Appendix A for how this exclusion affects the revenue limit calculation).

Paragraph 4 of Section 26

Purpose: Allows the state revenue limit to be adjusted when the responsibility for funding a program or programs is transferred from one level of government to another as a result of an amendment to the State Constitution. The revenue and spending limits may only be adjusted, however, to the extent that the revenue authorized for collection at both levels of government does not exceed that collected previously.

This is one of three ways provided within the amendment in which the state revenue limit of section 26 may be exceeded. The other two methods include direct voter approval and the emergency procedures for the Governor and the Legislature as specified in section 27.

SEC. 27. THE REVENUE LIMIT OF SECTION 26 OF THIS ARTICLE MAY BE EXCEEDED ONLY IF ALL OF THE FOLLOWING CONDITIONS ARE MET: (1) THE GOVERNOR REQUESTS THE LEGISLATURE TO DECLARE AN EMERGENCY; (2) THE REQUEST IS SPECIFIC AS TO THE NATURE OF THE EMERGENCY, THE DOLLAR AMOUNT OF THE EMERGENCY, AND THE METHOD BY WHICH THE EMERGENCY WILL BE FUNDED; AND (3) THE LEGISLATURE THEREAFTER DECLARES AN EMERGENCY IN ACCORDANCE WITH THE SPECIFICS OF THE GOVERNOR'S REQUEST BY A TWO-THIRDS VOTE OF THE MEMBERS ELECTED TO AND SERVING IN EACH HOUSE. THE EMERGENCY MUST BE DECLARED IN ACCORDANCE WITH THIS SECTION PRIOR TO INCURRING ANY OF THE EXPENSES WHICH CONSTITUTE THE EMERGENCY REQUEST. THE REVENUE LIMIT MAY BE EXCEEDED ONLY DURING THE FISCAL YEAR FOR WHICH THE EMERGENCY IS DECLARED. IN NO EVENT SHALL ANY PART OF THE AMOUNT REPRESENTING A REFUND UNDER SECTION 26 OF THIS ARTICLE BE THE SUBJECT OF AN EMERGENCY REQUEST.

Purpose: Establishes emergency procedures for exceeding the revenue limit of Section 26. They are:

- That the Governor requests the Legislature to declare an emergency.
- The request is specific as to the nature of the emergency, the dollar amount of the emergency and the method by which the emergency will be funded.
- The Legislature thereafter declares an emergency in accordance with the specifics of the Governor's request by a 2/3 vote of the members elected to and serving in each house. The revenue limit may only be exceeded in the fiscal year for which the emergency is declared. Furthermore, section 27 disallows any part of the rebate required under section 26 to be part of an emergency request.

Implementation Issues:

- (1) What statutes should be developed to implement the emergency procedures of Section 27?

It is important to establish procedures which are acceptable to the Legislature in that the section is heavily weighted in favor of the Executive. The Governor is responsible for declaring an emergency, outlining the nature of an emergency, the method by which the emergency will be funded, and where the dollars will go.

- (2) The requirement that emergency procedures be approved prior to the expenditure of emergency dollars ignores the fact that the problem is often unrecognizable until well into the fiscal year.

SEC. 28. NO EXPENSES OF STATE GOVERNMENT SHALL BE INCURRED IN ANY FISCAL YEAR WHICH EXCEED THE SUM OF THE REVENUE LIMIT ESTABLISHED IN SECTIONS 26 AND 27 OF THIS ARTICLE PLUS FEDERAL AID AND ANY SURPLUS FROM A PREVIOUS FISCAL YEAR.

Purpose: Establishes an expenditure limit which is equal to the revenue limit established in sections 26 and 27, plus federal aid and any surplus from a prior fiscal year.

Implementation Issues:

- (1) Where are withdrawals from the budget and economic stabilization fund to be found in the expenditure limit?

It is generally assumed that surplus, as used in Section 28, will be defined to include any withdrawals from the stabilization fund according to the formulas described in P.A. 76.

- (2) Where are the general obligation bond debt service requirements to be found in the expenditure limit?

The taxes necessary to support this debt service are excluded from revenues subject to the limit in all future years, but were included in 1978-79 state revenues in determining the tax limitation ratio. To be consistent, an argument can be made that these taxes should be added to the revenue limit as well in order to arrive at an overall expenditure limit.

SEC. 29. THE STATE IS HEREBY PROHIBITED FROM REDUCING THE STATE FINANCED PROPORTION OF THE NECESSARY COSTS OF ANY EXISTING ACTIVITY OR SERVICE REQUIRED OF UNITS OF LOCAL GOVERNMENT BY STATE LAW. A NEW ACTIVITY OR SERVICE OR AN INCREASE IN THE LEVEL OF ANY ACTIVITY OR SERVICE BEYOND THAT REQUIRED BY EXISTING LAW SHALL NOT BE REQUIRED BY THE LEGISLATURE OR ANY STATE AGENCY OF UNITS OF LOCAL GOVERNMENT, UNLESS A STATE APPROPRIATION IS MADE AND DISBURSED TO PAY THE UNIT OF LOCAL GOVERNMENT FOR ANY NECESSARY INCREASED COSTS. THE PROVISION OF THIS SECTION SHALL NOT APPLY TO COSTS INCURRED PURSUANT TO ARTICLE VI, SECTION 18.

Purpose: This is the "State Mandates" section which requires the state to maintain or ascribe to certain principles and practices with respect to state/local fiscal relations. There appear to be three provisions within section 29:

- The state is prohibited from reducing the state-financed proportion of the necessary cost of any existing activity or service required of units of local government by state law.
- A new activity or service, or an increase in the level of any activity or service beyond that required by existing law, shall not be required by the Legislature or any state agency of units of local government unless a state appropriation is made and disbursed to pay the unit of local government for any necessary increased costs.
- The provisions of this section, as outlined above shall not apply to any costs incurred pursuant to Article

VI, section 18. This section of the Constitution addresses the salaries of judges of the Supreme Court, the Appeals Court, the Circuit Court and the Probate Court. It has the effect of exempting a state-mandated increase in the salaries of these judges or a mandated increase in the number of judges from either of the aforementioned state financial requirements.

Implementation Issues:

- (1) What public acts are subject to the mandate requirements of section 29?

The effective date of this amendment was 45 days after its ratification, or December 22, 1978. Using this as the cut-off date, the state would be required to appropriate money to pay for any state mandates associated with any state law or promulgation of rules relating to state law that were enacted after December 22, 1978. Another alternative would be to require the reimbursement for any mandate which is effective after December 22, 1978, irrespective of the date of enactment of the legislation establishing the mandate. The fiscal implications here are enormous, because there are many existing statutes that require activities and services of local units of government that were passed prior to December 22. Examples include the revision of the

public health code, the school hot lunch/breakfast program, and rules relating to occupational safety and health, water pollution/air pollution quality control, and corrections and the incarceration of inmates.

(2) How do administrative rules relate to Section 29?

It appears that the reference in line 2 of section 29 to "state agency" specifically relates to the promulgation of rules. However, there is a conspicuous absence of the reference to state agency in line 1, which establishes the requirement that the state maintain the state-financed proportion of any local activity or service. Also, there is the consideration of whether or not the judicial system should be considered a "state agency" for the purposes of Section 29.

(3) There are many terms within section 29 which may need defining. These include:

"State-Financed Proportion"

"Necessary Costs"

"Activity or Service"

"State Law"

"New"

"Level"

"State Agency"

"Necessary Increased Costs"

"Existing Law"

Examples of problems that might be encountered with respect to these terms or phrases that need defining include the following: "State Financed Proportion" might be defined to exclude federal aid so that the state is not placed in the position of having to maintain financial effort previously provided by the federal government should that financing be discontinued; "Necessary Cost" will need a definition and perhaps it should be the average or prevailing cost in a region or the state; "Activity or Service" might be defined to require increased production at the local level; "State Law" might include administrative rule; "New" and "Level" are subjective terms which will need defining; "Necessary Increased Costs" will need defining, because local units most certainly will claim that all costs are "necessary".

- (4) Problems may arise in this section due to the fact that the expansion of existing services and some new programs are often mandated by the federal government. When this occurs, as it recently did with the increased coverage of unemployment compensation, is the State required to fully fund the expanded service? Does the local unit of government have a responsibility to assume a share of the cost? Regardless of who is responsible, where is the money supposed to come from, given that the state is operating under a revenue limit?
- (5) For the sake of efficiency a decision might be made to disallow any payment of less than a specified amount. A floor (minimum required payment) might be placed under both the total reimbursement cost and the individual local unit payment.

SEC. 30. THE PROPORTION OF TOTAL STATE SPENDING PAID TO ALL UNITS OF LOCAL GOVERNMENT, TAKEN AS A GROUP, SHALL NOT BE REDUCED BELOW THAT PROPORTION IN EFFECT IN FISCAL YEAR 1978-79.

Purpose: This section appears to require the state to maintain its current (fiscal year 1978-79) percentage of state aid to local governments as the minimum percentage for future budget years. The requirement that state aid to all local government units, taken as a group, shall not be reduced below the proportion in effect in fiscal year 1978-79, does not prevent the state from shifting aid between local units. Furthermore, this requirement would, in effect, discourage the state from assuming the funding for programs currently provided locally, such as the takeover by the state of local general assistance two years ago (\$60 million).

Nevertheless, section 30 is clearly a corollary of Section 29, that is intended to preempt the state from circumventing the state tax limit by a reduction in the share of the budget accruing to local units of government. It appears that some 35% to 41% of the 1978-79 budget consists of payments to local units of government, depending upon how this section is implemented and how federal funds are handled (see Appendix D - page 32).

Implementation Issues:

- (1) Although the section references "total state spending" it would not be desirable to define it as such. If so defined, the state would

be placed in the position of having to take over support for programs previously supported with federal dollars when funding is withdrawn; or the state would have to share with local units of government any additional federal dollars received. The means for resolving this dilemma is to define total state spending in a manner consistent with the definition of state revenue, as used in Section 26, which excludes federal funds. Appendix D outlines the share of the total state budget represented by payments to locals, with and without federal funds included.

- (2) In conjunction with the requirement in section 29 that the state fully fund a service required of local units, this section may tempt the state to begin making categorical grants to local governments of state-local revenue sharing monies, which are currently unrestricted. This earmarking of current state aid for specific new programs at the local level could apply pressure on local units to cover the cost of programs, previously paid from unrestricted revenue sharing grants.
- (3) "The proportion", as used in Section 30, connotes that it has to be a fraction or ratio of which there are two parts, a numerator and a denominator. Section 30 as stated may only provide one part of the fraction. If you imply that the denominator is the total state spending and the numerator is the total state spending paid to all units of local government, taken as a group, you are implying or using words which are not stated in Section 30. If this is improper, then perhaps the only way that you can interpret Section 30 is that you end up not with a proportion, but with a

dollar amount which would equal total state spending paid to all units of local government, taken as a group, for fiscal year 1978-79.

Another possible interpretation of the use of the word "proportion" is that the denominator would equal total state spending paid to all units of local government, taken as a group, and the numerator would be state payments to a particular local unit of government.

- (4) All state payments to local units of government must be defined and identified. Our preliminary analysis indicates that there are many "gray areas" where a payment may or may not actually be made to a specific unit of local government.
- (5) A procedure must be established for determining and publishing the ratio or amount. If a ratio is calculated, a decision will have to be made as to where to "round-off" to (e.g. 40%, 39.6%, 39.56%, 39.563%, 39.5628%, etc).

SEC. 31. UNITS OF LOCAL GOVERNMENT ARE HEREBY PROHIBITED FROM LEVYING ANY TAX NOT AUTHORIZED BY LAW OR CHARTER WHEN THIS SECTION IS RATIFIED OR FROM INCREASING THE RATE OF AN EXISTING TAX ABOVE THAT RATE AUTHORIZED BY LAW OR CHARTER WHEN THIS SECTION IS RATIFIED, WITHOUT THE APPROVAL OF A MAJORITY OF THE QUALIFIED ELECTORS OF THAT UNIT OF LOCAL GOVERNMENT VOTING THEREON. IF THE DEFINITION OF THE BASE OF AN EXISTING TAX IS BROADENED, THE MAXIMUM AUTHORIZED RATE OF TAXATION ON THE NEW BASE IN EACH UNIT OF LOCAL GOVERNMENT SHALL BE REDUCED TO YIELD THE SAME ESTIMATED GROSS REVENUE AS ON THE PRIOR BASE. IF THE ASSESSED VALUATION OF PROPERTY AS FINALLY EQUALIZED, EXCLUDING THE VALUE OF NEW CONSTRUCTION AND IMPROVEMENTS, INCREASES BY A LARGER PERCENTAGE THAN THE INCREASE IN THE GENERAL PRICE LEVEL FROM THE PREVIOUS YEAR, THE MAXIMUM AUTHORIZED RATE APPLIED THERETO IN EACH UNIT OF LOCAL GOVERNMENT SHALL BE REDUCED TO YIELD THE SAME GROSS REVENUE FROM EXISTING PROPERTY, ADJUSTED FOR CHANGES IN THE GENERAL PRICE LEVEL, AS COULD HAVE BEEN COLLECTED AT THE EXISTING AUTHORIZED RATE ON THE PRIOR ASSESSED VALUE.

THE LIMITATIONS OF THIS SECTION SHALL NOT APPLY TO TAXES IMPOSED FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON BONDS OR OTHER EVIDENCE OF INDEBTEDNESS OR FOR THE PAYMENT OF ASSESSMENTS ON CONTRACT OBLIGATIONS IN ANTICIPATION OF WHICH BONDS ARE ISSUED WHICH WERE AUTHORIZED PRIOR TO THE EFFECTIVE DATE OF THIS AMENDMENT.

Paragaraph 1 of Section 31

Purpose: This section prohibits local units from levying a new tax or increasing the rate of an existing tax without voter approval. If the definition of the base of an existing tax is broadened the tax rate must be reduced so that the total revenue collected is not greater than the amount collected under the old base. In addition, if the state equalized valuations of existing property in a local government increase by more than the consumer price index, the millage rate must be reduced to yield the same amount of revenue adjusted for inflation, as could have been collected at the existing authorized rate on the prior assessed value (this is the "millage rollback" provision).

Implementation Issues:

- (1) The most noted provision within Section 31 is the requirement of a millage rollback when the growth of property valuations of existing property exceeds the rate of inflation. While there may be general agreement as to a formula for determining the rollback, it is not clear where the rollback should be applied. The issue is whether you rollback the legal maximum for the taxing jurisdiction as authorized by constitution, statute or charter, or whether you rollback the levied rate as authorized by the local governing body. Another interpretation might have you rollback both rates since both appear to be referenced within Section 31. P.A. 532 of 1978 began the implementation of Section 31 and the millage rollback. P.A. 532 defined new constructions and improvements for the purposes of the millage rollback provision defined the rate of inflation and established certain reporting requirements for local assessors and taxing jurisdictions. Yet to be determined or implemented is the formula for the rollback and its application. See Appendix E (page 33) for an analysis of P.A. 532.
- (2) Beyond the question of which millage to rollback, there is the question as to when, and under what conditions, the millage can be restored. After all, if you rollback the levied rate there still will be a maximum authorized rate which is in excess of the levied rate. And, if the legal maximum authorized rate is rolled-back, it leaves a local unit with two maximums; a rolled-back maximum and a voter-

approved, higher maximum (authorized by charter, special election, State Constitution, etc).

- (3) The first sentence of Section 31 prohibits a local unit from levying any tax that was not authorized by law or charter prior to the ratification of the amendment (November 7, 1978), or from increasing the rate of any existing tax above that authorized by law or charter prior to the ratification of the amendment without local voter approval. There is a question as to whether or not a local unit must have voter approval when the authorization for the local levy is provided in State statute which was enacted prior to the ratification of the amendment. An example of this is the local income tax.
- (4) The second sentence of Section 31 requires the rate of a tax to be rolled back when the base of the tax is broadened by a definitional change, so that the estimated yield of the tax remains the same. It is not clear whether or not this rollback provision applies to an increase in the tax base which is associated with the removal of tax-exempt status given to certain property or classes of income, or other tax bases (for example, tax abatement under Public Act 198 of 1974 and Public Act 255 of 1978).

Paragraph 2 of Section 31

Purpose: In order to protect the full faith and credit of local taxing units, paragraph 2 specifies that the limitations of paragraph 1 shall not apply to taxes imposed for the payment of principal and interest on any indebtedness authorized prior to the effective date of this amendment.

Implementation Issues:

Public Act 529 of 1978 implements paragraph 2 of Section 31. This act exempts obligations that are authorized by the governing body of a local government unit before December 23, 1978, from the requirements of sections 6 and 31 (local voter approval). The exemption is contingent upon submission of the prospective issue to the Municipal Finance Commission prior to December 23, 1979. See Appendix F (page 41) for an analysis of P.A. 529.

Although the Legislature chose to construe the use of the word "authorized" quite liberally in implementing paragraph 2, there are others who will contend that "authorized" means "approved by the Municipal Finance Commission" prior to December 23, 1978.

SEC. 32. ANY TAXPAYER OF THE STATE SHALL HAVE STANDING TO BRING SUIT IN THE MICHIGAN STATE COURT OF APPEALS TO ENFORCE THE PROVISIONS OF SECTIONS 25 THROUGH 31, INCLUSIVE, OF THIS ARTICLE AND, IF THE SUIT IS SUSTAINED, SHALL RECEIVE FROM THE APPLICABLE UNIT OF GOVERNMENT HIS COSTS INCURRED IN MAINTAINING SUCH SUIT.

Purpose: This section provides that any taxpayer of the State has standing to bring suit in the State Court of Appeals to enforce provisions of Sections 25 through 31.

Implementation Issues

- (1) The Court of Appeals is not provided with juries to determine facts. Some new laws would have to be enacted to enable the Court of Appeals to establish and provide for juries to determine facts as they appear in any suit.
- (2) If the plaintiff is able to maintain his suit against a unit of government, that unit of government would have to pay costs incurred in the maintaining of the suit. This is unlike other questions of a public nature in which costs are not allowed. This would be an additional cost of implementing the law suits coming under this section, which may be numerous.
- (3) We do not currently have provisions for determining all of the cases that would be filed. There may be a need for a central location for the filing or record keeping of section 25 through 31 cases.
- (4) Even though Section 32 is limited to a taxpayer of this state, this could be interpreted to include certain out-of-state taxpayers

as well as all citizens of the State of Michigan because of due process questions and the consequence of previous attempts to limit rights and duties under previous sections. Section 6 of Article II, limited the right to vote on a bond issue or an increase in the limit on ad valorem tax rate for 5 or more years to people who own property. This was found unconstitutional in an Arizona case that went before the United States Supreme Court. The attempt to limit an action under this section to only taxpayers of this state may not be construed to mean that the taxpayer owns property or must be a resident of this state. The mere fact that a person directly or indirectly pays any kind of tax may qualify the person as a taxpayer.

SEC. 33. DEFINITIONS. THE DEFINITIONS OF THIS SECTION SHALL APPLY TO SECTION 25 THROUGH 32 OF ARTICLE IX, INCLUSIVE.

"TOTAL STATE REVENUES" INCLUDES ALL GENERAL AND SPECIAL REVENUES, EXCLUDING FEDERAL AID, AS DEFINED IN THE BUDGET MESSAGE OF THE GOVERNOR FOR FISCAL YEAR 1978-1979. TOTAL STATE REVENUES SHALL EXCLUDE THE AMOUNT OF ANY CREDITS BASED ON ACTUAL TAX LIABILITIES OR THE IMPUTED TAX COMPONENTS OF RENTAL PAYMENTS, BUT SHALL INCLUDE THE AMOUNT OF ANY CREDITS NOT RELATED TO ACTUAL TAX LIABILITIES. "PERSONAL INCOME OF MICHIGAN" IS THE TOTAL INCOME RECEIVED BY PERSONS IN MICHIGAN FROM ALL SOURCES, AS DEFINED AND OFFICIALLY REPORTED BY THE UNITED STATES DEPARTMENT OF COMMERCE OR ITS SUCCESSOR AGENCY. "LOCAL GOVERNMENT" MEANS ANY POLITICAL SUBDIVISION OF THE STATE, INCLUDING, BUT NOT RESTRICTED TO, SCHOOL DISTRICTS, CITIES, VILLAGES, TOWNSHIPS, CHARTER TOWNSHIPS, COUNTIES, CHARTER COUNTIES, AUTHORITIES CREATED BY THE STATE, AND AUTHORITIES CREATED BY OTHER UNITS OF LOCAL GOVERNMENT. "GENERAL PRICE LEVEL" MEANS THE CONSUMER PRICE INDEX FOR THE UNITED STATES AS DEFINED AND OFFICIALLY REPORTED BY THE UNITED STATES DEPARTMENT OF LABOR OR ITS SUCCESSOR AGENCY.

Purpose: This is a definitional section and the definitions apply to

Sections 25 through 32. There are four definitions provided in Section 33. These are: "total state revenues", which is found in Section 26; "personal income of Michigan", which is found in Section 26; "local government", which is found in Sections 25, 26, 29, 30, and 31; and "general price level", which is found in Section 31.

Implementation Issues:

- (1) The definitions of "personal income of Michigan" and the "general price level" are fairly commonplace and should not pose problems in terms of implementation and application; however, the definitions of "total state revenues" and "local government" must be carefully worded and implemented and may present some difficulty.

- (2) "Total state revenues" are defined as those sources of revenue listed in the Governor's budget message for fiscal year 1978-79. The definition further excludes federal aid and the amount of any credits based on actual tax liabilities or the imputed tax components of rental payments. It does not, however, exclude the amount of any credits not related to actual tax liabilities, such as the Home Heating Assistance Credit and the Higher Education Contribution Credit. Examples of excluded credits based on actual tax liabilities include the property tax credit and the city income tax credit. A problem posed by this definition of total state revenues is that in defining total state revenues as those items referenced in the Governor's budget message for 1978-79, the definition might be too strict in that it does not allow for the substitution of one tax for another within the limit of the tax-expenditure limit, and therefore, precludes tax reform.
- (3) By defining total state revenues as all general fund and special fund revenues in the budget message of the Governor for fiscal year 1978-79, there is excluded from the definition many sources of revenue which are found in "non-budget" operations such as debt service funds, various State authorities, and trust and agency funds. Examples might include the Michigan State Housing Development Authority, the Mackinaw Bridge Authority, and the Michigan Unemployment Compensation Trust Fund.
- (4) "Local government" is defined as "any political subdivision of the state, including, but not restricted to, school districts, cities, villages, townships, charter townships, counties, charter counties, authorities created by the state, and authorities created by other units of local government". It is generally assumed, but not

guaranteed, that intermediate school districts and community colleges and the fourteen planning regions within the State of Michigan are included in this definition. There are other examples of local government units that have not been included in the "laundry list" of local governments cited in the definition.

- (5) Interestingly enough, authorities created by the State can be found under the definition of "local government" in Section 33. It is not clear whether this places authorities of the state under the tax limitations of Section 31 or the "mandates" guarantees of Sections 29 and 30.

SEC. 34. THE LEGISLATURE SHALL IMPLEMENT THE PROVISIONS OF SECTIONS 25 THROUGH 33, INCLUSIVE, OF THIS ARTICLE.

Purpose: This section of the amendment requires the Legislature to implement the provisions of Sections 25 through 33, inclusive, of Article IX. This would seem to indicate that it is the intent of the voters that the amendment be primarily implemented by state statute, and that the implementation should be a legislative responsibility.

Implementation Issues:

Implementation of those sections directly affecting local units should be completed as soon as possible since most units begin new fiscal years in the spring or early summer. The mechanics surrounding the state tax-expenditure limit do not take effect until fiscal year 1979-80, and are not expected to actually limit growth next year. Therefore, implementation of Sections 26, 27 and 28 (state limitation) can wait until after implementation of Sections 29, 30 and 31 (impact directly upon local units).

Sec. 6 (New Language capitalized)

Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation herein before established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this Constitution, voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds APPROVED BY THE ELECTORS or other evidences of indebtedness APPROVED BY THE ELECTORS or for the payment of assessments or contract obligations in anticipation of which bonds are issued APPROVED BY THE ELECTORS, which taxes may be imposed without limitation as to rate or amount; OR, SUBJECT TO THE PROVISIONS OF SECTIONS 25 THROUGH 34 OF THIS ARTICLE, to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

Purpose: Section 6 of Article IX was amended to require voter approval to levy taxes outside the limits specified therein, for the payment of principal and interest on bonds or other evidences of indebtedness.

Appendix A

CALCULATION OF THE TAX LIMITATION RATIO

Limit is Based on the Ratio of 1978-79 State Revenues to 1977 Michigan Personal Income (MPI).

	(in millions)
1978-79 Gross Revenues	\$ 9,001
Less: Federal Aid	<u>(2,142)</u>
Subtotal	\$ 6,859
Add: Home Heating Credit	38
Higher Education Credit	<u>5</u>
	\$ 6,902
Divided By: 1977 MPI	69,554
Equals: Tax Limit Ratio	9.92%

APPLICATION OF THE LIMIT

IN 1979-80

	(in millions)
1979-80 Gross Revenues	\$ 9,608
Less: Federal Aid	<u>(2,246)</u>
Subtotal	\$ 7,362
Less: General Obligation Debt Revenue	<u>(66)</u>
Equals: Revenue Subject to Limit	\$ 7,296

Actual Limit = 9.92% X 1978 MPI
= .0992 (77,553)
= \$ 7,696

State revenues \$400 million below limit in 1979-80

Senate Fiscal Agency
January, 1979

Appendix B

The term "liability" has been construed quite broadly in the past as shown below:

LIABILITY. The word is a broad legal term. *Mayfield v. First Nat. Bank of Chattanooga, Tenn., C.C.A.Tenn., 137 F.2d 1013, 1019.* It has been referred to as of the most comprehensive significance, including almost every character of hazard or responsibility, absolute, contingent, or likely. *Wentz v. State, 108 Neb. 597, 183 N.W. 467, 468.*

It has been defined to mean: all character of municipal debts and obligations, *Washington Water Power Co. v. City of Coeur d'Alene, Idaho, D.C.Idaho, 9 F.Supp. 263, 271; Public Market Co. of Portland v. City of Portland, 171 Or. 522, 130 P.2d 624, 643, 646; amenability or responsibility, Eberhard v. Aetna Ins. Co., 235 N.Y.S. 445, 447, 134 Misc. 386; an obligation, one is bound in law or justice to perform, Murphy v. Chicago League Ball Club, 221 Ill.App. 120, 126; State ex rel. Diederichs v. Board of Trustees of Missoula County High School, 91 Mont. 300, 7 P.2d 543, 545. An obligation which may or may not ripen into a debt, Brogan v. Ferguson, 101 Fla. 1306, 131 So. 171, 173. ANY kind of debt or liability, either absolute or contingent, express or implied, Public Market Co. of Portland v. City of Portland, 171 Or. 522, 130 P.2d 624, 643, 646; any liability whatsoever, In re Tatnall, 102 N.J. Eq. 445, 141 A. 174, 175; condition of being actually or potentially subject to an obligation, Eneyart v. City of Lincoln, 136 Neb. 146, 283 N.W. 314, 318; condition of being exposed to the upspringing of an obligation to discharge or make good an undertaking of another, or a loss or deficit, or the being exposed or subject to a given contingency, risk, or casualty which is more or less probable, First National Bank of East Islip v. National Surety Co., 228 N.Y. 469, 127 N.E. 478, 480; United States Fidelity & Guaranty Co. v. Ilaney, 166 Minn. 403, 208 N.W. 17; condition of being responsible for a possible or actual loss, penalty, evil, expense, or burden, Wentz v. State, 108 Neb. 597, 183 N.W. 467, 468; condition which creates a duty to perform an act immediately or in the future, Union Oil Co. of California v. Basalt Rock Co., 30 Cal.App.2d 317, 88 P. 2d 139, 141; duty to pay money or perform some other service, Dehne v. Hillman Inv. Co., C.C.A.Pa., 110 F.2d 458, 458; duty which must at least eventually be performed, Vandegrift v. Riley, Cal.Sup., 16 P.2d 734, 736; estate tax, Lyeth v. Hoey, C.C.A.N.Y., 112 F.2d 4, 6; every kind of legal obligation, responsibility, or duty, Mayfield v. First Nat. Bank of Chattanooga, Tenn., C.C.A.Tenn., 137 F.2d 1013, 1019; fixed liability, Vandegrift v. Riley, Cal.Sup., 16 P.2d 734, 736; Ivester v. State ex rel. Gillum, 183 Okl. 519, 83 P.2d 193, 196; legal responsibility, Clark v. Lowden, D.C.Minn., 48 F.Supp. 261, 263; McCullough v. National Bank of Union City, 127 Pa.Super. 452, 193 A. 65, 66; penalty for failure to pay tax when due, State v. Fischl, 94 Mont. 92, 20 P.2d 1057, 1059; present, current, future, fixed or contingent debts, Erickson v. Grande Ronde Lumber Co., 162 Or. 556, 92 P.2d 170, 174; punishment, Holliman v. Cole, 168 Okl. 473, 34 P.2d 597, 599; responsibility for torts, Italiani v. Metro-Goldwyn-Mayer Corporation, 45 Cal.App.2d 464, 114 P.2d 370, 372; tax, State ex rel. DuFresne v. Leslie, 100 Mont. 449, 50 P.2d 959, 963, 101 A.L.R. 1329; Thompson v. Smith, 189 Okl. 217, 114 P.2d 922, 924; that which one is under obligation to pay, or for which one is liable, Reconstruction Finance Corporation v. Gossett, Tex., 111 S.W.2d 1066; Boney v. Central Mut. Ins. Co. of Chicago, 213 N.C. 470, 196 S.E. 837, 842; the state of being bound or obliged in law or justice to do, pay, or make good something, Fell v. City of Coeur d'Alene, 23 Idaho 32, 129 P. 643, 649, 43 L.R.A.N. S., 1095; Breslaw v. Rightmire, 196 N.Y.S. 539, 541, 119 Misc. 833; the state of one who is bound in law and justice to do something which may be enforced by action, Fidelity Coal Co. v. Diamond, 310 Ill.App. 387, 34 N.E.2d 123; Clark v. Lowden, D.C.Minn., 48 F.Supp. 261, 263; McCullough v. National Bank of Union City, 127 Pa.Super. 452, 193 A. 65, 66; unliquidated claim, Stephens v. Duckworth, 188 Miss. 626, 196 So. 219, 221; unpaid debt, Comstock v. Morgan Park Trust & Savings Bank, 367 Ill. 278, 11 N.E.2d 394, 396.*

The term is therefore broader than the word "debt" or "indebtedness," *Coulter Dry Goods Co. v. Wentworth, 171 Cal. 500, 153 P. 939, 940; Lowery v. Fuller, 221 Mo.App. 495, 281 S.W. 968, 972; and includes in addition existing obligations, which may or may not in the future eventuate in an indebtedness, Daniels v. Con, 192 Ky. 15, 232 S.W. 68, 67; Irving Bank-Columbia Trust Co. v. New York Rys. Co., D.C.N.Y., 292 F. 429, 433.*

The word is not synonymous with "loss" or "damage," and under an automobile insurance policy insuring against "liabilities," there may be recovery without allegation or proof that insured has been required to pay any sum, whereas under a policy covering "actual loss or damage," no obligation arises till insured has suffered loss or damage. *Ducommun v. Strong, 193 Wis. 173, 214 N.W. 616; Stag Mining Co. v. Missouri Fidelity & Casualty Co., Mo. App., 209 S.W. 321, 323.*

Existing liability. See Existing Liabilities.

Legal liability. See Legal Liability.

Liability bond. See Bond.

Limited liability. See Limited Liability.

Personal liability. See Personal Liability.

Secondary liability. See Secondary Liability.

Appendix C

STATE OF MICHIGAN

General Obligation Debt
As of September 30, 1978

	<u>Total Authorized</u>	<u>Total Issued</u>	<u>Amount Outstanding</u>
General Obligation Notes	(1)	(1)(3)(4)	(4)
School Loan Bonds	(2)	\$117,500	\$ 76,500
Water Pollution Bonds	\$335,000	302,000	206,000
Public Recreation Bonds	100,000	100,000	62,000
Vietnam Veteran's Bonus Bonds	<u>205,000</u>	<u>190,000</u>	<u>183,000</u>
 TOTAL GENERAL OBLIGATION DEBT		 \$709,500	 \$527,500

¹ In each fiscal year the State may borrow an amount no greater than 15% of the preceeding year's undedicated revenues. The Notes must be redeemed in the same fiscal year they are issued.

² No specific limit by law.

³ \$200,000,000 Notes were issued and redeemed during each of the fiscal years ended September 30, 1976 and September 30, 1978.

⁴ Excludes \$450,000,000 in Notes dated January 3, 1979, which will mature September 17, 1979, prior to end of this fiscal year.

Source: State of Michigan, Department of Treasury

Appendix D
 PAYMENTS TO LOCAL GOVERNMENTS
 IN FY 1978-79 BUDGET
 (SEC. 30)
 (in thousands of dollars)

P.A. 1978	Budget Category	Gross 1978-79 Budget	Gross Payments To Locals	Pct. of 1978-79 Budget	Payments - Net of Federal \$'s	Adjusted Pct. of Budget
402	Attorney General	\$ 17,767	\$ -0-	-0- %	\$ -0-	-0- %
402	Civil Rights	8,367	-0-	-0-	-0-	-0-
402	Civil Service	12,320	-0-	-0-	-0-	-0-
402	Executive	2,159	-0-	-0-	-0-	-0-
402	Judicial	28,933	2,997	10.36	2,997	10.36
402	Legislative	42,364	-0-	-0-	-0-	-0-
402	Mgt. & Budget	103,113	42,625	41.34	13,899	13.48
402	State	59,042	50	.08	50	.08
402	Treasury	36,695	-0-	-0-	-0-	-0-
395	Education	310,751	240,571	77.42	18,028	5.80
404	School Aid	1,897,638	1,897,638	100.00	1,877,752	98.95
404	Comm. Colleges	121,997	121,997	100.00	121,997	100.00
372	Higher Education	612,643	-0-	-0-	-0-	-0-
399	Commerce	96,413	19,169	19.88	8,916	9.25
399	Labor	147,094	120,023	81.60	4,600	3.13
399	Licensing & Reg.	7,965	-0-	-0-	-0-	-0-
394	Military Affairs	11,085	-0-	-0-	-0-	-0-
394	State Police	110,891	7,939	7.16	7,939	7.16
398	Agriculture	40,397	360	.89	360	.89
469	Data Processing	68,587	-0-	-0-	-0-	-0-
403	Corrections	149,608	3,262	2.18	3,262	2.18
468	Hwy. & Trans.	851,352	388,807	45.67	354,036	41.59
400	Natural Resources	116,036	17,586	15.16	10,284	8.86
407	Mental Health	459,859	86,248	18.76	86,248	18.76
406	Public Health	167,226	34,140	20.42	34,140	20.42
401	Social Services	2,407,275	3,240	.13	3,240	.13
475,463	Capital Outlay	126,161	38,379	30.42	18,238	14.46
405	Debt Service	70,280	-0-	-0-	-0-	-0-
405	Grants & Transfers	631,917	617,531	97.72	601,981	95.26
402	Stabilization Fund	104,100	-0-	-0-	-0-	-0-
	TOTAL	\$8,820,034	\$3,642,562	41.30%	\$3,167,967	35.92%

NOTE: Actual payments to locals are subject to definition within implementing statute for Sec. 30 of the tax-expenditure limitation amendment.

FISCAL NOTE

Appendix E

FISCAL



Senate Office Building

Date: 2/23/79

Analyst: T. Ferris

Phone: 373-2767

Bill No.:

S.B. 519
(P.A. 532 of 1978)

**Purpose
of Bill:**

To amend sections 36, 140, 140a, 141, 142 and 142a of Act. No. 205 of the Public Acts of 1893, and to add sections 34d and 87d. Specifically, to make certain amendments to the General Property tax Act consistent with the requirements of Sections 31, 33 and 34 of Article IX of the State Constitution of 1963.

**Problem
Statement:**

Section 34 requires the legislature to implement sections 25 through 31 of Article IX (the so-called "Headlee" tax-expenditure limit). Section 31 states in part that:

"If the assessed valuation of property as finally equalized, excluding the value of new construction and improvements, increases by a larger percentage than the increase in the General Price Level from the previous year, the maximum authorized rate applied thereto in each unit of Local Government shall be reduced to yield the same gross revenue from existing property, adjusted for changes in the General Price Level, as could have been collected at the existing authorized rate on the prior assessed value."

This is the language that for months has been interpreted by the press and some proponents of Headlee to mean that local taxes are pegged to the inflation rate and may not rise faster than the U.S. consumer price index. This argument is faulty for a couple of reasons: first, the rollback provision addresses the general property tax and its corollaries only (IFT, CFT, state utility property tax, etc.), and does not cap other local taxes; second, new construction and improvements are excluded from the calculation meaning that total local property taxes may rise by more than the rate of inflation. Nevertheless, it appears that the intent of this provision is to limit the growth of property taxes on existing property in a taxing unit to the rate of inflation.

The first year in which the rollback may be required is 1979, based upon the valuations for 1979 as of tax day, December 31, 1978. The first step in the rollback process is the recording of all valuations by all taxing units, exclusive of new construction and improvements. While this bill does not address the derivation of a millage rollback factor or its application, it does provide key definitions to be used in recording property valuations as of December 31, 1978 for millage rollback purposes. Furthermore, it specifies certain reporting procedures for local assessors and county equalization directors. The key definitions are of "new construction and improvements" and the "general price level." New construction and improvements is defined as "additions less losses", where additions include new construction and improvements plus previously exempted property and losses include newly exempted, removed or destroyed real or personal property. This definition allows locals to adjust for industrial and commercial property tax abatement (P.A. 198-1974, P.A. 255-1978), where property is first deleted then added to the rolls, without the necessity of a millage rollback.

The general price level is defined as the annual change in the United States consumer price index for all-urban consumers, as required by Section 33 of Article IX.

FISCAL NOTE

CONTINUED

Bill No.: S.B. 519
(P.A. 532 of 1978)

Fiscal Impacts:

State
Govt: None

Local
Govt:

There may be a modest increase in costs associated with the more sophisticated reporting requirements. There will be significant revenue implications associated with the millage rollback formula when it is adopted.

Act No. 532
Public Acts of 1978
Approved by Governor
December 21, 1978

**STATE OF MICHIGAN
79TH LEGISLATURE
REGULAR SESSION OF 1978**

Introduced by Senator VanderLaan

ENROLLED SENATE BILL No. 519

AN ACT to amend sections 36, 140, 140a, 141, 142 and 142a of Act No. 206 of the Public Acts of 1893, entitled as amended "An act to provide for the assessment of property and the levy and collection of taxes thereon, and for the collection of taxes levied; making such taxes a lien on the lands taxed, establishing and continuing the lien, providing for the sale and conveyance of lands delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection therewith; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to provide penalties for the violation of this act; and to repeal certain acts and parts of acts in anywise contravening any of the provisions of this act," section 36 as amended by Act No. 408 of the Public Acts of 1978 and section 140a as added by Act No. 292 of the Public Acts of 1976, being sections 211.36, 211.140, 211.140a, 211.141, 211.142 and 211.142a of the Compiled Laws of 1970; and to add sections 34d and 87d.

The People of the State of Michigan enact:

Section 1. Sections 36, 140, 140a, 141, 142 and 142a of Act No. 206 of the Public Acts of 1893, section 36 as amended by Act No. 408 of the Public Acts of 1978 and section 140a as added by Act No. 292 of the Public Acts of 1976, being sections 211.36, 211.140, 211.140a, 211.141, 211.142 and 211.142a of the Compiled Laws of 1970, are amended and sections 34d and 87d are added to read as follows:

Sec. 34d. (1) As used in this section or section 31 of article 9 of the state constitution of 1963, or both:

(a) "Additions" means all increases in value caused by new construction, improvements caused by new construction or a physical addition of equipment or furnishings, and the value of property which was exempt from taxes or not included on the assessment unit's previous year's assessment roll.

(b) "Financial officer" means the officer responsible for preparing the budget of a unit of local government.

(c) "General price level" means the annual average of the United States consumer price index for all urban consumers as defined and officially reported by the United States department of labor, bureau of labor statistics.

(213)†

(d) "Losses" means a decrease in value caused by the removal or destruction of real or personal property, and the value of property taxed in the prior year which has been exempted or removed from the assessment unit's assessment roll.

(e) "New construction and improvements" means additions less losses.

(2) On or before the first Monday in May of each year, beginning in 1979, the assessing officer of each township or city shall tabulate the assessed valuation as approved by the local board of review for real property separately from personal property for each unit of local government and provide the tabulated assessed valuations to the county equalization director. The tabulation by the assessing officer shall contain additions, losses, and new construction and improvements for each unit of local government or part thereof in the township or city. The county equalization director shall compute these amounts and the current and prior year's state equalized valuation for each unit of local government that levies taxes under this act within the boundary of the county and shall cooperate with equalization directors of neighboring counties, as necessary, to make the computation for units of local government located in more than 1 county. The county equalization director shall transmit the complete computations to the superintendent of the intermediate school district, who shall review all computations related to school districts, and intermediate school districts and who shall provide assistance to the equalization director in making these tabulations. The county equalization director shall transmit the complete computations to the presidents of the community colleges who shall review all computations related to school districts and community colleges and who shall provide assistance to the equalization director in making these tabulations.

(3) On or before the first Monday in June of each year, beginning in 1979, the county equalization director shall deliver the statement of the computations signed by the county equalization director and the intermediate school district superintendent to the county treasurer.

(4) On or before the second Monday in June of each year, beginning in 1979, the treasurer of each county shall certify the prior year's state equalized valuation, the current year's state equalized valuation, and the amount of new construction and improvements for that year for each unit of local government which levies a property tax in the county.

(5) The financial officer of each unit of local government shall make the computation of the tax rate using the data certified by the county treasurer and the state tax commission. At the annual session in October, the county board of commissioners shall not authorize the levy of a tax unless the governing body of the taxing jurisdiction has certified that the requested millage has been reduced, if necessary, in compliance with section 31 of article 9 of the state constitution of 1963.

Sec. 36. (1) The township clerk of each township, on or before September 15 of each year, shall make and deliver to the supervisor of the clerk's township, a certified copy of all statements and certificates on file, and of all records of any vote or resolution in the clerk's office authorizing or directing money to be raised in the township by taxation for township, school, highway, drain and all other purposes, together with a statement of the aggregate amount thereof. The supervisor shall deliver the certified copies to the clerk of the county before October 2. The clerk shall present the copies to the county board of commissioners at its annual meeting and file the copies in the clerk's office. The county board of commissioners shall not levy in the year voted a tax levy voted on or after September 15. This subsection does not apply where subsection (2) or subsection (3) applies.

(2) The amount of taxes which are to be levied for school purposes in a school district which holds a millage renewal election on or before December 30, 1978, and which are approved, shall be certified for that calendar year of 1978. On the day after the millage is certified pursuant to this subsection, the appropriate county board of commissioners shall meet and direct or amend its direction for the spread of millages by local units in the county in accordance with the certification or amended certification.

(3) Notwithstanding sections 40, 42, and 46, for the 1978 tax year the county board of commissioners shall levy and spread the millage on behalf of a school district conducting a millage renewal election in December which shall be collected by February 14. The reasonable expenses incurred by the township or city in assessing and collecting the school taxes levied pursuant to this subsection, to the extent that the expenses are in addition to the expenses of assessing and collecting any other taxes at the same time and exceed the amount of any fees imposed by the township for collection of the school taxes, shall be billed to and paid by the board of education.

Sec. 87d. (1) Notwithstanding section 87c(10), a county which determines to borrow pursuant to section 87c may submit to its voters the question of issuing revolving fund notes at any general or special election, which question shall provide for the establishment of the revolving fund for not to exceed 10 years and shall be in substantially the following form:

"Shall the county of _____ establish or continue for _____ years a delinquent tax revolving fund and, in connection with that fund, borrow an amount not to exceed the delinquent taxes pledged

for repayment of the borrowing or borrowings, as may be made each year, and issue its general obligation unlimited tax notes, pledging the county's full faith and credit for the purpose of providing money for the delinquent tax revolving fund?"

(2) If a majority of the electors voting on the question vote in favor of the question, the county may proceed to issue the notes as provided for in this act, which notes may be designated general obligation unlimited tax notes.

(3) If a majority of the electors voting on the question vote against the question, or if the question is not submitted, the county may also issue the notes but only in accordance with subsection (6).

(4) In addition, this section shall validate a question submitted to the electors before the effective date of this section in which the electors were asked to approve the issuance of general obligation tax notes secured by delinquent taxes, regardless of how the question may have been phrased. The defeat of the question shall require that the notes be issued as nonvoted until a future question is approved by the electors.

(5) A county may submit to its electors the question authorized by this section once each calendar year.

(6) If nonvoted notes are issued pursuant to section 87c:

(a) The resolution authorizing the borrowing and issuance of the notes shall establish the pledged delinquent taxes, the interest thereon, and any amounts received in the future from taxing units in the county because of the uncollectibility of any delinquent taxes as funds pledged to note repayment, which amounts shall be placed in a segregated fund and used for no other purpose except to repay the notes and the interest thereon. The resolution shall provide that the expenses of borrowing shall be repaid from the collection fees on the pledged delinquent taxes and the balance of the collection fees may be added to the funds pledged to note repayment, if the resolution provides.

(b) The notes shall be designated general obligation limited tax notes.

(c) The resolution may establish a special fund to secure the notes referred to as a note reserve fund and shall pay into the note reserve fund any proceeds of sale of the notes to the extent provided in the resolution authorizing issuance of the notes. All money in the note reserve fund, except as hereafter provided, shall be added to the funds pledged to note repayment and shall be used solely for payment of principal and interest on the notes for which the fund was established, or the purchase of notes for which the fund was established. Money in the note reserve fund shall first be withdrawn for payment of principal and interest on notes before other county general funds are used to make the payments. All income or interest earned by, or increment to, the note reserve fund due to its investment or reinvestment shall be deposited in the delinquent tax revolving fund, when the notes for which the fund was established are retired. The resolution shall provide that when the note reserve fund is sufficient to retire the notes and accrued interest thereon, it may be so used.

(d) A resolution which establishes a note reserve fund may provide for an additional borrowing of an amount not to exceed the amount of the reserve, and the county shall have the power to borrow that additional amount.

(e) The notes shall be the full faith and credit obligations of the county issuing them. If the proceeds of the taxes and interest and, when pledged, collection fees, or note reserve fund are not sufficient to pay the principal and interest, when due, the county shall pay the same from its general funds or any additional tax which may be levied within its constitutional and statutory debt limits, and the county may thereafter reimburse itself from delinquent taxes collected. The county's obligation to pay from its general funds shall be its first budget obligation and shall be provided for in the borrowing resolution in the following language:

"This note issue, in addition, shall be a general obligation of the county of _____, secured by its full faith and credit, which shall include this county's limited tax obligation, within applicable constitutional and statutory limits, and its general funds. The county budget shall provide that if the pledged delinquent taxes and any other pledged amounts are not collected in sufficient amounts to meet the payments of principal and interest due on these notes, the county, before paying any other budgeted amounts, will promptly advance from its general funds sufficient money to pay that principal and interest."

(7) If coupon notes are issued, pursuant to section 87c or this section:

(a) Interest shall be payable semiannually or annually.

(b) The coupons shall specify the source from which the notes shall be payable, which may be by reference to the note itself.

(c) The coupons shall contain the facsimile signature of the county treasurer.

Sec. 140. (1) A writ of assistance or other process for the possession of land the title to which was obtained by or through a tax sale, except if title is obtained under section 131, shall not be issued until 6

months after there is filed with the county treasurer of the county where the land is situated, a return by the sheriff of that county showing service of the notice prescribed in subsection (2). The return shall indicate that the sheriff has made personal or substituted service of the notice upon the following persons who were, as of the date the notice was delivered to the sheriff for service:

- (a) The last grantee or grantees in the regular chain of title of the land, or of an interest in the land, according to the records of the county register of deeds.
- (b) The person or persons in the actual open possession of the land.
- (c) The grantee or grantees under the tax deed issued by the state treasurer for the latest year's taxes then appearing of record in the registry of deeds.
- (d) The mortgagee or mortgagees named in all undischarged recorded mortgages, or assignees thereof of record.
- (e) The holder of record of all undischarged recorded liens.

(2) The notice served shall be substantially in the following form:

To the owner or owners of any and all interests in, or liens upon the land described:

Take notice: Sale was lawfully made of the following described land for unpaid taxes on that land, and that the undersigned has title to the land under tax deed or deeds issued for the land. You are entitled to a reconveyance of this land within 6 months after return of service of this notice, upon payment to the undersigned or to the treasurer of the county in which the land is situated, of all sums paid for the tax sale purchase, together with 50% in addition, and the fees of the sheriff for the service or cost of publication of this notice. The service or publication costs shall be the same as if for personal service of a summons upon commencement of an action, together with a sum of \$5.00 for each description, without other additional cost or charge. If payment as described in this notice is not made, the undersigned will institute proceedings for possession of the land.

Description..... amount paid..... taxes for 1.....
(Signed).....
Place of business.....

(3) If the grantee or grantees, or the person or persons holding the interest in the land as prescribed in subsection (1) are residents of a county of this state other than the county in which the land is situated, the return as to that person shall be made by the sheriff of the county where that person or persons reside or may be found. If a person entitled to notice under subsection (1), is not a resident of this state, the sheriff, if the post-office address of the person can be ascertained, shall send to the nonresident person a copy of the notice by certified mail, and attach the receipt indicating postal delivery of the notice to the return and file the return with the county treasurer's office. If service on the nonresident is not made by mail, the sheriff shall cause a copy of the notice to be served personally on the nonresident, and when the notice is personally served outside of this state, proof of service shall be made by affidavit of the person making service, which affidavit shall be made before a notary public or other officer authorized to administer oaths. The affidavit, when made outside of this state, shall have attached a certificate of the clerk of the court of record, certifying to the official character of the officer or notary, and the genuineness of the signature of the officer or notary to the jurat of the affidavit, and the sheriff shall return this proof of personal service with the return to the county treasurer's office.

(4) If a person entitled to notice as prescribed in subsection (1) is dead, or if a person's estate is under control of a trustee or guardian, the notice may be served upon the executor or administrator of the decedent's estate, or upon the decedent's heirs if there is not an executor or administrator, or upon the trustee or guardian of an incompetent person, with like effect as if served upon the grantee, mortgagee, or assignee.

(5) If the sheriff of the county where the land is located makes a return that after careful inquiry the sheriff is unable to ascertain the whereabouts or the post-office address of the persons upon whom notice may be served as prescribed in this section. The notice shall be published for 4 successive weeks, once each week, in a newspaper published and circulated in the county where the land is located, if there is one. If no paper is published in that county, publication shall be made in a newspaper published and circulated in an adjoining county, and proof of publication, by affidavit of the printer or publisher of the newspaper, shall be filed with the county treasurer. This publication shall be instead of personal service upon the person or persons whose whereabouts or post-office address cannot be ascertained as prescribed in subsection (3).

(6) Service may be made upon a resident of this state by leaving the notice at that person's usual place of residence with a member of that person's family of mature age, and upon a nonresident of this state by serving the notice on the nonresident personally while in this state and the return in this case shall be made by the sheriff of the county in which service was made.

(7) A corporation formed under the laws of this state shall be regarded, for the purposes of this act, as a resident of the county in this state where the corporation maintains its principal or registered office for the

transaction of business in this state, as indicated by the articles of incorporation. Service on a corporation may be made on the president, secretary, treasurer, or resident agent of the corporation, or by leaving the notice at the principal or registered office of the corporation with a person in charge of the office. If the sheriff of the county in which the principal or registered office of the corporation is located indicates on the return that upon careful inquiry the sheriff was unable to find the office or a president, secretary, treasurer, or resident agent of the corporation in that county, service of the notice may be made upon the corporation by publication as prescribed in subsection (5). This section shall apply to a corporation whether or not the term of corporate existence has expired. A foreign corporation doing business in this state and having a registered agent to accept service of process as required by law shall be regarded, for the purposes of this act, as a resident of the county in which its registered office is located. Service on a foreign corporation may be made on the resident agent, or by certified mail addressed to the corporation at its home office.

(8) Service as prescribed in this section may be made by a sheriff, undersheriff, or deputy sheriff. The sheriff shall, in the return of service, state the time when the notice was delivered to the sheriff for service, and the return shall be prima facie evidence of the facts stated in the return.

Sec. 140a. (1) As used in this section, "improved residential parcel" means a parcel of land which contains a dwelling suitable for occupancy.

(2) When a proof of notice on an improved residential parcel is filed with the county treasurer, the proof shall contain the statement: "this parcel is an improved residential parcel". The proof shall show the street address, if known. An additional copy of the notice on this class of property shall be provided with the filing of the proof of notice. Failure by the holder of a tax deed to include this statement and to provide a copy shall invalidate the filing and render it null and void. The county treasurer shall forward the copy of the proof of notice to the county department of social services, which shall make an attempt to contact the owner and occupant of the property to determine if the owner or occupant is in need of assistance or protection of the court. The county department shall file with the court a written report of its findings within the 6-month redemption period provided in section 142. Failure to contact the owner or occupant or to file a written report shall not invalidate the proceedings.

Sec. 141. (1) A person having an estate in the land; an interest in the land, either in fee, for life, or for years; a mortgagee of the land; an assignee of an undischarged mortgage on the land; the holder of a lien on the land; an executor, administrator, trustee, or guardian of these persons; or a person in actual possession of the land at the time of the tax purchase, shall be entitled to receive from the person, or that person's heirs or assigns, claiming title under the tax deed, within 6 months after the filing of return of service or the filing of proof of publication of the notice as prescribed in section 140, a release and quitclaim of all right and interest in the land acquired under the tax deed upon payment to the person claiming title under the tax deed or that person's heirs or assigns, or to the treasurer of the county in which the land is situated, of the amount paid for the purchase, together with 50% in addition, and personal or substituted service fees, which fees shall be the same as provided by law for service of subpoenas, for orders of publication, or for the cost of service by certified mail, together with a sum of \$5.00 for each description, without additional cost or charge.

(2) A person or persons entitled to a release and quitclaim under subsection (1), after the issue of tax deeds on the land, or after the purchaser of the land is entitled to the tax deeds, and before service of notice or return thereof, shall have the right to redeem the land from the sale. Redemption shall be made by paying to the purchaser, a grantee of the purchaser, or to the treasurer of the county in which the land is situated, all sums paid as a condition of the purchase, together with 50% in addition, and the sum of \$5.00 for each description. Upon payment, the tax title and all the certificates of sale shall become void and of no effect against the land to be redeemed. The county treasurer shall, when payment is made as provided in this section, at once notify the owner of the tax title, or the owner of the certificates of sale, of the payment so made, and the owner of the tax title, or of the certificates of sale, shall immediately deliver to the treasurer a release and quitclaim of all rights acquired by the owner under the tax purchase, running to the person making the payment, and shall also deliver to the treasurer the tax deed, certificates of purchase, tax receipts, and all other conveyances relating to the tax title or tax interest before that person shall be entitled to receive the money paid to the treasurer as provided in this section. Upon delivery of the release and quitclaim, the certificates of purchase, and the tax receipts, the treasurer shall immediately pay to the owner of the tax title all sums received by the treasurer for redemption of the land described in the release and quitclaim, certificates, and receipts. A quitclaim or reconveyance made under this section shall not vest in the grantee title or interest in the land beyond that already owned by the grantee, but the grantee shall be entitled to a lien on the land, or on parts of the land or interests in it which are not owned by the grantee, for the amount paid, or the portion of the amount paid which is lawfully chargeable to the parts or interests, in addition to the prior lien or other interest held by the grantee. This lien may be enforced in a court of competent jurisdiction, with interest on the lien at the rate of 6% per annum from the date of the payment.

The circuit court has jurisdiction to enforce the liens provided for in this section without regard to the amount of the liens. An application for a writ of assistance shall show that the applicant has complied with the provisions of this act regarding the giving of notice. The applicant shall attach to the application a copy of the notice and the return of the sheriff serving the notice, or a copy of the proof of publication, or a receipt from the post-office showing that the notice was served by certified mail.

Sec. 142. (1) A purchaser under a tax sale or a state bid sold shall not enter into possession of the land purchased by the tax sale or state bid until 6 months after notice is given to the party or parties in interest as prescribed in sections 140 and 141 unless the purchaser acquired from these parties their title to the land by conveyance from these parties of their interest in the land.

(2) If the land is vacant and unoccupied and a writ of assistance is not needed to put the purchaser into possession, the time for redemption under this section shall expire 6 months after the service of notice to the party or parties in interest, or date of mailing the notice by certified mail, or first publication thereof, and the filing of proof of personal or substituted service or of publication with the treasurer of the county where the land is situated.

(3) If an action or other proceeding to set aside the tax sale of the land is commenced by the owner of the land or by a person having a redeemable interest in the land, before the expiration of the 6 months, the purchaser under tax sale or the purchaser's grantee shall not enter into possession of the land until the final determination of the action or other proceeding.

(4) This section shall not apply to applications for writs of assistance made upon behalf of the state or grantees thereof.

Sec. 142a. If a grantee, mortgagee, or person in possession fails to redeem the land within the 6 months, as prescribed in sections 140, 141, and 142, within 30 days after the expiration of the 6-month redemption period, the county treasurer shall cause to be recorded in the office of the register of deeds for the county in which the land is situated, in a record to be provided for that purpose, a copy of the notice and proof of service thereof, duly certified by the county treasurer in whose office the notice and proof of service is filed. This record shall be prima facie evidence in all courts and tribunals that the purchaser is the owner of the land under the purchase. The county treasurer shall be entitled to a fee of 50 cents for filing the notice and to additional fees as provided by law for making the copy and certifying to the making of the copy. The county treasurer shall be entitled to a fee of 50 cents for recording the copy of notice and proof of service and shall collect from the purchaser under the sale or deed the recording fee of the register of deeds. The register of deeds shall be entitled to the same fees for recording the copy as is provided by law for recording deeds of conveyance and other instruments.

Section 2. Sections 140, 140a, 141, 142 and 142a of this amendatory act shall take effect May 1, 1979.

This act is ordered to take immediate effect.

Billie S. Farnum

Secretary of the Senate.

Thomas Thatcher

Clerk of the House of Representatives.

Approved _____

Governor.

FISCAL NOTE

Appendix F

Bill No.:

H.B. 5063
(P.A. 529 of 1978)

**Purpose
of Bill:**

To amend Chapter 1 of Act No. 202 of the Public Acts of 1943, being the "Municipal Finance Act", by adding Section 4. Specifically, to exempt obligations that are authorized by the governing body of a local government unit before December 23, 1978, from the requirements of Section 6 and 31 of Article IX of the State Constitution of 1963, as amended by the electors at the November general election of 1978, provided that the prospective issue is received by the Municipal Finance Commission for their approval before December 23, 1979.

**Problem
Statement:**

Proposal E (the Tax-Expenditure Limitation amendment to the State Constitution of 1963) was approved by the electors in November of 1978. Among other things, the amendment added Section 31 to Article IX and placed certain restrictions on local taxing power. The second paragraph of Section 31 states:

"The limitations of this section shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness or for the payment of assessments on contract obligations in anticipation of which bonds are issued which were authorized prior to the effective date of this amendment."
[emphasis added].

Section 34 of the amendment requires the Legislature to implement the provisions contained in Section 25 through 33 of the amendment. This bill seeks to implement the paragraph of Section 31 that is cited above.

The key phrase is the last portion of the paragraph, which is underlined above. In order to be exempt from the requirement of local voter approval, the bonds which are issued must have been authorized prior to the "effective date" of the amendment. According to Section 1 of Article XII of the State Constitution of 1963 the effective date of an amendment to the Constitution is 45 days after the election at which it was approved. In the case of the tax-expenditure limit and other amendments to the Constitution approved in November, the effective date is December 23, 1978.

FISCAL



Senate Office Building

Date: 2/23/79

Analyst: T. Ferris

Phone: 373-2767

FISCAL NOTE

CONTINUED

Bill No.: H.B. 5063
(P.A. 529 of 1978)

Fiscal Impacts:

State
Govt: None.

Local
Govt: The taxes levied to support non-voted debt may be available for other debt purposes when the old debt (authorized prior to December 23, 1978) is fully amortized. It is not clear whether the tax authorization can survive beyond the life of the original issue without voter approval.

Act No. 529
Public Acts of 1978
Approved by Governor
December 21, 1978

**STATE OF MICHIGAN
79TH LEGISLATURE
REGULAR SESSION OF 1978**

Introduced by Reps. Trim, Gast and Thomas H. Brown

ENROLLED HOUSE BILL No. 5063

AN ACT to amend chapter 1 of Act No. 202 of the Public Acts of 1943, entitled as amended "An act relative to the borrowing of money by municipalities, and the issuance of bonds, notes and certificates of indebtedness; to provide for tax levies and sinking funds; to create the municipal finance commission, and to prescribe its powers and duties; to create an advisory tax study committee, and to prescribe its powers and duties; to prescribe penalties; and to repeal all acts and parts of acts inconsistent with the provisions of this act," being sections 131.1 to 131.3 of the Compiled Laws of 1970, by adding section 4.

The People of the State of Michigan enact:

Section 1. Chapter 1 of Act No. 202 of the Public Acts of 1943, being sections 131.1 to 131.3 of the Compiled Laws of 1970, is amended by adding section 4 to read as follows:

CHAPTER 1

Sec. 4. If before December 23, 1978, the governing body of a municipality adopts an ordinance or resolution directing that obligations be issued and establishing the terms of the proposed obligations, except the rates of interest on those obligations, and an application for approval of the obligations is made to the municipal finance commission by December 22, 1979, the obligations directed to be issued by the ordinance or resolution shall be considered for the purposes of the state constitution of 1963 to have been authorized before the addition of the second paragraph of section 31 of article 9 and the amendment to section 6 of article 9, as approved by the electors at the November general election of 1978, became part of the state constitution of 1963. If the obligations have been so authorized, the municipality may impose taxes without limitation as to rate or amount for the payment of principal and interest on the obligations or for the payment of an assessment or contract obligation in anticipation of which the obligations are issued. The ordinance or resolution directing that obligations be issued may be amended subsequent to December 22, 1978 to alter the terms of the proposed obligations, but the amendment shall not increase the principal amount of the obligations to be issued or change the general purpose for which the obligations are issued.

(426)

Section 2. This amendatory act shall take effect February 1, 1979.

This act is ordered to take immediate effect.

Thomas Thatcher

Clerk of the House of Representatives.

Billie S. Farnum

Secretary of the Senate.

Approved.....

.....
Governor.

TAXPAYERS UNITED RESEARCH INSTITUTE

P.O. BOX 1978 • FARMINGTON HILLS, MI 48018 •

For immediate Release

Contact: William Shaker
517-631-4535 or 517-636-0887

NEWS RELEASE

PROPOSAL "E" EXPLAINED

Drafters' notes explaining the intent of the Tax Limitation Amendment (Headlee) were distributed to all members of the Michigan Legislature. The Legislature must implement the amendment by passing enabling legislation. The sections of the amendment dealing with local government went into effect on December 22, 1978, but enabling legislation as yet has not been passed.

This 23 page document was released by William H. Shaker, the amendment's chief author. The other members of the amendment language committee were: William Hanson, William Niskanen and Donald Reisig. Along with serving as the Principal Draftsman for Proposal E, Shaker also authored the amendment's predecessor (Proposal C) which was narrowly defeated in the 1976 election. He is also the founder of the Michigan Tax Limitation movement and organizer and founder of Taxpayers United.

The draftsmans' notes also include a list of 42 people who served as members of the Drafting Advisory Committee and as consultants. This list included: Taxpayers United Chairman Richard Headlee, former presidential advisor Paul McCracken, Richard O'Neill of The Michigan Association of Realtors, James Barrett of the Michigan State Chamber of Commerce, and Taxpayers Federation of Michigan President Allan Schmid.

The drafters' notes begin:

"The spirit of the times from which this proposal grew was the 'Tax Revolt' and it was the drafters' clear intent that the Tax Limitation Amendment be so interpreted."

- MORE -

-45-

Shaker said: "The drafters' intent was to place the total dollar size of Michigan's public sector under direct popular democracy while retaining the best features of representative democracy."

Shaker said that he is concerned by news reports from Lansing regarding various legislative proposals for implementing the amendment. He said that the majority of the "official commission" appointed by the Governor to recommend implementing legislation was composed of people violently opposed the the amendment.

Among other things, the amendment requires a reduction of property tax rates whenever assessed values of property in a community increase faster than inflation. Shaker said: "one of the more ridiculous proposals of the 'official commission' is to reduce tax rates, as required by the amendment, for the first year, but then let tax rates go back up to their previous rates in the following years." He said: "letting tax rates go back up after the first year would accomplish absolutely nothing and is positively prohibited by the amendment."

"Such arrogant disregard for the will of the people would surely be met with court challenges and, if necessary, another state-wide petition drive," he said.

Shaker concluded that he is hopeful that the Legislature will pay close attention to the intent of the amendment drafters, study the drafters' notes in detail, and heed the will of Michigan voters as expressed when they approved Tax Limitation last November.

#

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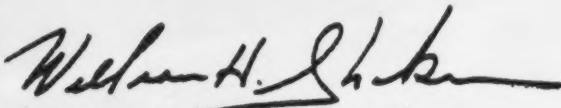
P.O. BOX 1978 • FARMINGTON HILLS, MI 48918 •

February 15, 1979

DRAFTERS' NOTES - TAX LIMITATION AMENDMENT

(Proposal E, approved by the electors on November 7, 1978, as an Amendment to the Michigan Constitution of 1963.)

The following notes provide an explanation of the drafters' intent in the formulation of this amendment:



William H. Shaker, P.E.
PRINCIPAL DRAFTSMAN
1218 Holyrood Street
Midland, Michigan 48640
517-636-0887 or 517-631-4535

Drafting Advisory Committee: Advisors/Consultants:

Larry Andrick	Eldon Andrews (1974)
Walter Averill, M.D.	Stanley Beattie, Esq. (1978)
E. James Barrett	Louis Cramton (1974)
Noel Black	Richard Durant, Esq. (1974, 1978)
Mary Bourdon	Russell Gould, Esq. (1974)
Richard Carncross	Gene Heck (1974)
Henry Dodge	Walker Henry, Esq. (1974)
*William Hanson	Norman Hughes (1974)
Richard Headlee	Dwight Johnson (1974)
Roy Jones	Richard McIllan, Esq. (1978)
Fred Keister	Roger Needham, Esq. (1974)
Howard Ledbetter	William Nicholson (1978)
Robert Lee	L. Brooks Patterson, Esq. (1978)
Jeff Leib, Esq.	Robert Pickup (1974, 1978)
Paul McCracken, Ph.D	Robert Queller (1974, 1978)
*William Niskanen, Ph.D	*Donald Reisig, Esq. (1978)
Richard O'Neill	Thomas Sharpe (1974)
Thomas Ritter	William Craig Stubblebine (1974, 1978)
Al Schmid, Esq.	Lewis K. Uhler (1974, 1978)
Michael Sessa	
*William H. Shaker, P.E.	
Flora Whan	
Harry Veryser	

*Language Committee

Drafters' Notes - Tax Limitation Amendment (Proposal E, approved by the electors on November 7, 1978, as an Amendment to the Michigan Constitution of 1963.)

The spirit of the times from which this proposal grew was the "tax revolt" and it was the drafters' clear intent that the Tax Limitation Amendment be so interpreted.

The drafters' intent was to make the minimal changes from Proposal C (a similar tax limitation constitutional amendment which was drafted in 1974 and appeared on the 1976 Michigan general election ballot; but not approved by the electors at that time), consistent with adding more definitional specificity and strengthening provisions dealing with local taxation. The language of Proposal E is attached to these notes as Appendix 1 and, for historical comparison, Proposal C is attached as Appendix 2.

The section numbers refer to the section numbers of Article 9, labeled Proposal E in Appendix 1.

Section 25

The Preamble to the Amendment, Section 25, serves as a summary of Sections 26 through 34, inclusive and Section 6, as amended; and spells out that the objectives, purposes, and

intent of the drafters, petitioners and the voters are clearly to place specifically defined limitations on the revenues of both state and local governmental units and to place these limits under the direct and absolute control of the voters. It is also clear from the remaining sections that "limitations specified herein" mean tax and revenue levels existing at the effective dates of the amendment: October 1, 1980 for Sections 26, 27, 28 and December 22, 1978, for Sections 29 through 34, inclusive and Section 6, as amended. It was clearly not the intent to require voter approval of annual state budgets. The intent of "limitations specified herein" is explained with specificity in these notes, as they deal with each specific section.

Section 25 specifically prohibits the state from circumventing the intent of the amendment by shifting tax burdens from the state to local governmental levels. Any action by the state which would result, directly or indirectly, in increased local taxation through a shift in funding responsibility is clearly prohibited by this Section.

This Section and Sections 26 through 34, inclusive, together with Section 6, as amended, were intended to strengthen the process of direct voter approval over total taxation and spending levels; and it was intended that the legislative, judiciary, and administrative branches of government be so guided.

In essence, the drafters' intent was to place the total dollar size of Michigan's public sector under direct popular democracy while retaining the best features of representative democracy, vis-a-vis the allocation of resources within the voter approved overall spending limitations.

Section 26

This section defines the state revenue limit. The revenue limit is expressed in terms of the ratio of total state revenues, excluding federal aid and taxes levied for specified debt service in FY 1978-1979 over the personal income in calendar 1977 times the relevant income base. This avoids use of a specific percentage (such as 8.3%, as in Proposal C) and the charge that there would be a reduction if the limit were effective at that time.

There was strong sentiment that this percentage should be rolled back over a period of time; but the consensus was that a roll back was conceptually different and should be handled later with an independent amendment.

Section 33 defines "total state revenues" to include all general and special revenues, excluding federal aid, as defined in the budget message of the governor for FY 1978-1979. It was the drafters' intent for the definition of

"total state revenues" to be all inclusive, including revenues from licenses and permits and any and all other sources, except those revenue sources explicitly excluded by language in the amendment itself. It was the drafters' intent that any and all future revenues be treated like any revenues that exist upon approval of the amendment and be subject to the limit. Taxes imposed for the payment of principal and interest on bonds, approved by the voters and authorized under Section 15 of this article and loans to school districts authorized under Section 16 of this article, are excluded from the revenue limitation established in Section 26. Such taxes and federal aid are excluded both from the calculation of the 1978-79 revenue limit ratio and from the revenue limit computation in subsequent years.

In drafting this Section, there was concern regarding the danger of voting in November, 1978, on a proposal which uses revenues in 1978-1979 as a percentage of 1977 personal income as the limitation, since if the amendment were approved, the legislature would have the opportunity to increase taxes following the November election in order to build up the ratio. It was the drafters' intent that this not happen and the general consensus was that such a tax increase would be politically unlikely, and that if the legislature were so arrogant as to increase taxes following approval of the tax limitation amendment, that there would be an immediate

petition drive that would result in technical amendments which would reduce the percentage limitation.

Directly or indirectly federally mandated spending increases are not exempted from the provisions of this section. It is the consensus that any problems arising from such federal requirements would be cured later on by a federal tax limitation amendment.

This section requires pro rata refunds to taxpayers in the event that revenues exceed the dollar amount of the revenue limit by 1% or more of the limit. If the excess were less than 1% of the revenue limit, the excess can be either refunded pro rata, or placed in the budget stabilization fund, as determined by the legislature. If the excess of revenues were greater than 1% of the revenue limit, a transfer to the budget stabilization fund out of excess revenues is prohibited and all of the dollars in excess of the limit must be refunded on a pro rata basis. The drafters' intent in designing the 1% cushion was to minimize the administrative expense relating to tax refunds.

The pro rata provision was designed to prevent the legislature from indirectly creating a graduated income tax through over taxation followed by various refunding schemes, other than pro rata.

Section 27

This section defines conditions by which the revenue and spending limitations may be exceeded. Declaration of an emergency requires executive action and this section requires that an emergency must be declared by the Governor and approved by a two-thirds vote of members of each house. The procedures for an emergency declaration and approval are very specific in order to prevent the abuse of this section.

Section 28

This section provides for a balanced budget and reinforces the present constitutional requirement for a balanced budget. Past practices designed to avoid the constitutional balanced budget requirements, such as extending the fiscal year, are precluded by this section. Surplus is intended to include budget stabilization monies, permitting financing a budget stabilization fund within the revenue limit established in Section 26. It was not the drafters' intent to any way prohibit the creation of the budget stabilization fund within the limit, or to include budget stabilization funds from prior years within the revenue limitation formula.

Section 29

It was the drafters' intent to include all necessary state mandated cost increases in this provision, including but not limited to: changes in general law which increase local governmental costs, e.g., increases in the state minimum wage law; changes in the civil and criminal statutes, e.g., mandatory sentencing; federally encouraged changes in state law, e.g., unemployment compensation coverage; collective bargaining or compulsory arbitration mandates, land use regulations, etc. It was the drafters' intent that the words "activity or service" be broadly defined to require that the state pay for all costs mandated by state law or state directive after December 22, 1978. This section requires reimbursements to local units for necessary new costs from all state mandates requiring action after December 22, 1978. Such interpretation is also required by Section 25 which prohibits the state from requiring any new or expanded activities by local governments without full state financing...or from shifting the tax burden to local government. The phrase "required by existing law," is used to clarify the authority of the State to require local governments to increase their activities up to standards established by existing law without additional reimbursements. However, "new" administrative interpretation of existing law would require reimbursement.

"Necessary costs" means that the legislature may establish some criteria to determine effectiveness, such as average costs, state-wide. It was intended that the legislature implement this section through appropriate legislation, including appropriations to cover the necessary costs for mandated activity or service. No mandated activity or service should be legally binding on any local unit until the appropriations for such mandated activity or service is made and disbursed to the applicable local units.

The state is prohibited from reducing the state financed proportion of specific existing activities or services below that proportion funded by the state in the base year, i.e., fiscal year 1978-1979. It was the drafters' intent that the phrase "any existing activity or service required of Local Government by state law" be broadly construed to mean all activities or services performed by Local Government as a result of the State Constitution, state statute or state regulation, e.g., public elementary and secondary schools as defined by law. This provision does not guarantee, for example, that the proportion of state expenditures paid to a specific school district cannot be reduced. It does mean, however, that the proportion of state funding going to school districts, state-wide, for public elementary and secondary education shall not be reduced.

The State is prohibited from reducing the state financed proportion of existing specific programs required of local governments by state law or state directive. Future mandated programs shall be fully funded. It seeks to obviate any temptation the state might have to fund a new mandated program (e.g., rapid transit) by shifting funds from a previously mandated program (e.g., K-12 education).

This section does not necessarily prevent the state from shifting funds from general and unrestricted revenue sharing to the funding of a state mandated activity but it does prohibit shifting funds from state mandated programs unless the mandate for such programs is eliminated.

Section 30

The primary intent of this section was to prevent a shift in tax burden, either directly or indirectly from state to local responsibility. The phrase "taken as a group" permits the legislature to reallocate funds to local units of government, i.e., geographically or from one unit to another. It was the drafters' intent to rely on the political process to effect such allocations and not to limit the legislature's ability to create more effective and efficient governmental entities or to eliminate those local units which no longer serve any utilitarian purpose.

Additional or expanded activities mandated by the state, as described in Section 29 would tend to increase the proportion of total state spending paid to local government above that level in effect when this section becomes effective.

Section 31

Section 31 begins: "Units of Local Government are hereby prohibited from levying any tax not authorized by law or charter when this section is ratified or from increasing the rate of an existing tax above that rate authorized by law or charter when this section is ratified, without approval of a majority of the qualified electors of that Local Government voting thereon." This sentence was intended to prohibit local units from levying any new tax that might be authorized after the effective date of the amendment without voter approval. It also was intended to prohibit any local unit from increasing the rate of an existing tax beyond the limit established by law or charter after the effective date of the amendment.

However, the intent of the wording was to permit Local units to retain those taxing powers they had by state law or local charter prior to the effective date of the amendment. Thus, a Local unit that was not levying or imposing the full amount of its taxing authority at the time of the effective date of the

amendment would continue to be able to exercise such power after the effective date of the amendment. For example, a city with a 20 mill limit in its charter that only levied 15 mills in 1978 could increase its millage rate up to its 20 mill charter limit without again going to the voters for approval. Likewise, a school district that had voter approval to levy extra voted millage at the time of adoption could increase its millage rate up to the amount authorized without again seeking voter approval, even though the maximum millage authorized might not have been levied in 1978.

Industrial facility taxes levied under authority of Public Act 198 of 1974 are taxes that "were authorized by law" when Section 31 would go into effect, and therefore, would be exempt from the local vote requirement.

The first paragraph of Section 31 provides that as assessed value is increased, the millage authorized for the taxing unit must be decreased in equal proportion to the increased assessment, with the only increase in revenue allowed from existing property being determined by the Consumers Price Index for the United States as reported by the United States Department of Labor.

The rollback provision of this section reads:

"...if assessed valuation of property as finally equalized, excluding the value of new construction and improvements, increases by a larger percentage than the increase in the general price level from the previous year, the maximum authorized rate applied thereto in each unit of local government shall be reduced to yield the same gross revenue from existing property, adjusted for changes in the general price level, as could have been collected at the existing authorized rate on the prior assessed value...". (emphasis added) "Existing authorized rate" was intended to refer to "maximum rate authorized by law or charter" when this Section is ratified.

This section recognizes that in many communities, property tax revenues have increased rapidly, without any increase in tax rates, due to the rapid increase in assessments. It was the drafters' intent to assure that tax revenues on existing property not increase faster than the general U.S. inflation rate, regardless of increases in assessments, without local voter approval. The growth of property taxes on existing property in a taxing unit is limited to the rate of inflation.

For particular years in which assessed valuation of property as finally equalized (excluding new construction) exceeds inflation the maximum tax rate authorized by law or charter

shall be rolled back to yield the same gross revenue from existing property (adjusted for inflation) as could have been collected at the existing authorized rate on the prior assessed value. The intent of the underlined phrase was to roll back the "maximum rate authorized by law or charter," even though the unit may have been levying a lesser rate. A key operative word in the phrase is "could." The effect of this provision shall be a continual ratcheting downward of maximum authorized tax rates whenever assessed values exceed inflation.

This section only operates to reduce maximum authorized tax rates in years in which assessed values, as finally equalized, increase faster than inflation. It does not allow "rolled back" rates to be increased under any conditions without voter approval. This is illustrated for a taxing unit in the following hypothetical example. (Exhibit 1) Presmises: the "maximum authorized rate" is 10 mills; spread rate (the millage levied in 1978) was 9 mills; assume the taxing authority continues to levy the same millage that it was levying in 1978 (9 mills) until the "maximum authorized rate" reaches a lesser level.

<u>Year</u>	<u>Assessed Value (S.E.V.)</u>	~~1%~~ <u>Change in Assessed Value (S.E.V.)</u>	<u>Inflation</u>	<u>Maximum Authorized Tax Rate</u>	<u>Spread Rate</u>	<u>Annual Property Tax Savings*</u>
1978	\$20,000,000			10.00 mills	9.00	--
1979	\$23,400,000	17%	9%	9.32 mills	9.00	--
1980	\$24,102,000	3%	7%	9.32 mills	9.00	--
1981	\$25,789,140	7%	12%	9.32 mills	9.00	--
1982	\$29,657,511	15%	8%	8.75 mills	8.75	\$ 7,415
1983	\$35,589,013	20%	10%	8.02 mills	8.02	\$34,877
1984	\$38,080,244	7%	7%	8.02 mills	8.02	\$37,318
1985	\$41,888,269	10%	7%	7.80 mills	7.80	\$50,216

*Annual savings is calculated based on the difference between 1978 spread rate and the "maximum authorized tax rate." Annual savings in this example would be larger if it were assumed that the local governing body, in the absence of Tax Limitation, had spread taxes at the "maximum authorized rate" in 1979, 1980 and 1981, instead of continuing to spread at the 1978 level.

Exhibit 1

The impact of this provision is further illustrated in the attached table (Exhibit 2) which shows the impact on a taxing jurisdiction with a market value of \$20 million in 1968, with S.E.V. increases, inflation rate and millage levy as shown in the table. It is assumed that the taxing jurisdiction is levying the maximum authorized rate for the purposes of this example.

It was clearly the drafters' intent that whenever a "maximum tax rate authorized by law or charter" is rolled back, the "rolled back" rate becomes the "new" maximum authorized rate,

(In Millions of Dollars)

Year	Assessed (S.E.V.)	% Change in Assessed (S.E.V.)	Inflation	Section 31 Millage under (E)	Property Taxes Section 31 (without "E")	Property Taxes Section 31 (E)	Annual Property Tax Savings Section 31 (E)	Cumulative Annual Property Tax Savings Section 31 (E)
1968	10,000			40 mills	400.00	--	--	--
1969	11,450	14.5%	5.4%	36.82	458.00	421.59	36.41	36.41
1970	12,893	12.6%	5.9%	34.63	515.72	446.48	69.24	105.65
1971	14,556	12.9%	4.3%	31.99	582.24	465.65	116.59	222.24
1972	16,206	10.1%	3.3%	30.02	641.04	481.10	159.94	382.18
1973	16,956	5.8%	6.2%	30.02	678.24	509.02	169.22	551.40
1974	19,329	14.0%	11.0%	29.23	773.16	564.99	208.17	759.57
1975	20,102	4.0%	9.1%	29.23	804.08	587.58	216.50	976.07
1976	21,108	5.0%	5.8%	29.23	844.32	616.99	227.33	1,203.40
1977	21,530	2.0%	6.5%	29.23	861.20	631.47	229.73	1,433.13
1978	24,501	13.8%	7.5%	27.61	980.04	676.47	303.57	1,736.70

The cumulative savings, over the past ten years, had "E" been in effect, would have been \$1,736,700 -- under the assumptions in this hypothetical example.

which will then serve as the base from which the next rollback would be calculated. Once a tax rate is rolled back under this section, it shall never be increased without voter approval.

A key phrase in this section is "rate authorized by law or charter." Local government officials would retain the authority to increase tax rates to the maximum rates authorized "by law or charter," even if such maximum rates are not presently levied. This does not change their present authority, with the exception that "maximum rates authorized" would be rolled back, over time, whenever assessed valuation of property as finally equalized (presently defined as S.E.V.) increases more than inflation. This section assures local voter control of the maximum authorized rates and the revenues generated at these rates.

"Rate authorized by law or charter" was selected rather than "rate existing at time of ratification" (the spread rate) because the drafters' intent was not to penalize the taxing authorities that were efficient enough to operate at less than their maximum authorized levels or who may have reduced millage due to some unusual circumstances below the authorized level. Furthermore, it was recognized that those maximum rates had been previously approved by voters and therefore, such an approach is consistent with the intent of the amendment.

To reiterate, it was the clear and absolute intention of the drafters to require that all property and local taxation be under direct voter control. In no way does this section allow for millage rolled back under this section to be restored without approval by a majority of the electors of the unit affected and voting thereon.

This section permits, but does not require the legislature to mandate, through enabling legislation, that a lower tax rate than "authorized by law or charter" be established, such as that tax rate in each unit effective on December 22, 1978. Although specification of this approach is not mandated, it clearly would be within the spirit of the tax revolt, from which this amendment sprang, to do so. In retrospect, it is noted that Proposal E ballot language stated "...the proposed amendment would...prohibit local government from adding new or increasing existing taxes without voter approval." Emphasis added. The legislature and the courts should be guided by the perception of the electorate in passing the amendment.

"The value of new construction and improvements" clearly means only new physical construction. Any increase in value because of zoning changes or for any other reason are not within the meaning of "new construction and improvements." New construction is intended to mean the amount of newly constructed property less losses. Failure to adjust ⁷⁰for losses would

allow taxes on existing property to increase faster than inflation which is clearly contrary to the intent of this section.

The second paragraph of Section 31 was included by the drafters to protect the rights of the holders of bonds which had been properly issued and authorized prior to the effective date of the amendment. It was also intended to assure those bondholders that the constitutional amendment would not be applied retroactively to bonds issued and authorized prior to the effective date of the amendment. It was the intention of the drafters that this paragraph would apply only to completed transactions, i.e. to bonds issued and authorized, prior to the effective date of the amendment.

The drafters were very careful to spell out that the limitations provided in Section 31 in paragraph 1 did not apply to taxes that had been previously imposed for bonds that were issued and properly authorized prior to the effective date of the amendment. The drafters also recognized that if bonds had been improperly authorized and issued, prior to the effective date of the amendment, the bonds might be set aside or voided through litigation. It was not the intention of the drafters to protect the defective bonds from litigation or to prohibit such litigation.

Paragraph 2 of Section 31 was not in any manner or fashion intended to limit Article 9, Section 6 of the Tax Limitation amendment. Paragraph 2 of Section 31 was written totally independent of and separate from Article 9 Section 6 and had as its only intention the guaranteeing of contractual rights of individuals who had purchased bonds that were properly issued and authorized, i.e. completed, prior to the effective date of the amendment so that they would be protected from a reduction in millage under the provisions of paragraph 1 of Section 31. It was the clear intention of the drafters to prohibit the issuing or authorization of any unlimited tax obligation bonds in the State of Michigan after the effective date of this amendment without a vote of the electors.

Section 32

Any taxpayer of the state shall have standing to bring suit with original jurisdiction in the Michigan Court of Appeals to enforce the provisions of this amendment.

By costs, the drafters meant all expenses incurred in maintaining such suit, including, but not limited to filing fees, service fees, witness fees, discovery expenses, attorney fees and reasonable reimbursement for plaintiffs' time and travel.

Section 34

The legislature must implement the provisions of Sections 25 through 33, inclusive. It is the intent that state law be the authority for implementing the additions to this article and extension of legislative authority to any department, agency, etc., shall not occur.

Section 6

The drafting of Article 9, Section 6 changed only the wording in paragraph 2 of Section 6. The former wording of paragraph 2 Section 6 excluded certain taxes from the limitations provided in paragraph 1 Section 6 of the 1963 Constitution. All the limitations contained in the 1963 Constitution in paragraph 1 Section 6 were retained. The intent, and the only intent of paragraph 2 Section 6 was to require a vote by the people before any taxes could be imposed over and above the limitations contained in paragraph 1 Section 6. The changes in paragraph 2 Section 6 were intended specifically to prohibit the imposition of any taxes for the payment of principal and interest on bonds or other evidence of indebtedness, or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which require the imposition of taxes over and above the limits set forth in paragraph 1 Section 6 unless the qualified electors

of the political subdivision wherein such taxes are to be imposed have approved through an election in that district the issuance of obligations that would require the levy of property taxes that would be in excess of said limits contained in paragraph 1 Section 6.

In paragraph 2 of Section 6 the drafters also imposed the limitations under Sections 25 through 34 of Article 9 on any taxes imposed for any other purpose, thus requiring that any increase in taxation of property in the State of Michigan shall not be allowed without the approval of the qualified electors of whatever entity attempts to increase such property taxes.

The drafters felt that the 1963 Constitution allowed governmental units to increase property taxes for the purposes listed in paragraph 2 of Section 6 over and above the limitations contained in paragraph 1 Section 6 without any direct control of such taxes that would exceed the limits in paragraph 1 Section 6, by the electors of any political subdivision, etc. The drafters' intent was to stop this situation and return to the people full control of all property taxation amounts that would exceed the limitations set forth in Section 6, paragraph 1.

It was understood by the drafters that any taxes levied under Section 6, paragraph 1 and within the limitations contained

therein could be used for any purpose consistent with the Constitution and the laws of the State of Michigan, including the payment of principal and interest on bonds or other evidence of indebtedness or for the payment of assessments or contract obligation in anticipation of which bonds were issued. To reiterate, it was the sole intention of the drafters of Article 9 Section 6 to require that all taxation of property be subject to approval by the qualified electors of whatever entity seeking to impose such property tax.

APPENDIX 1

PROPOSAL E (1978)

INITIATIVE PETITION
AMENDMENT TO THE CONSTITUTION

PROPOSED CONSTITUTIONAL AMENDMENT

ADDING SECTIONS 25, 26, 27, 28, 29, 30, 31, 32, 33, & 34 TO ARTICLE IX AND AMENDING SECTION 6 OF ARTICLE IX

Article IX of the Michigan Constitution is hereby amended by adding Sections 25, 26, 27, 28, 29, 30, 31, 32, 33, & 34, and by amending Section 6, such additions and amendments to read as follows:

Sec. 25. Property taxes and other local taxes and state taxation and spending may not be increased above the limitations specified herein without direct voter approval. The state is prohibited from requiring any new or expanded activities by local governments without full state financing, from reducing the proportion of state spending in the form of aid to local governments, or from shifting the tax burden to local government. A provision for emergency conditions is established and the repayment of voter approved bonded indebtedness is guaranteed. Implementation of this section is specified in Sections 26 through 34, inclusive, of this Article.

Sec. 26. There is hereby established a limit on the total amount of taxes which may be imposed by the legislature in any fiscal year on the taxpayers of this state. This limit shall not be changed without approval of the majority of the qualified electors voting thereon, as provided for in Article 12 of the Constitution. Effective with fiscal year 1979-1980, and for each fiscal year thereafter, the legislature shall not impose taxes of any kind which, together with all other revenues of the state, federal aid excluded, exceed the revenue limit established in this section. The revenue limit shall be equal to the product of the ratio of Total State Revenues in fiscal year 1978-1979 divided by the Personal Income of Michigan in calendar year 1977 multiplied by the Personal Income of Michigan in either the prior calendar year or the average of Personal Income of Michigan in the previous three calendar years, whichever is greater.

For any fiscal year in the event that Total State Revenues exceed the revenue limit established in this section by 1% or more, the excess revenues shall be refunded pro rata based on the liability reported on the Michigan income tax and single business tax (or its successor tax or taxes) annual returns filed following the close of such fiscal year. If the excess is less than 1%, this excess may be transferred to the State Budget Stabilization Fund.

The revenue limitation established in this section shall not apply to taxes imposed for the payment of principal and interest on bonds, approved by the voters and authorized under Section 15 of this Article, and loans to school districts authorized under Section 16 of this Article.

If responsibility for funding a program or programs is transferred from one level of government to another, as a consequence of constitutional amendment, the state revenue and spending limits may be adjusted to accommodate such change, provided that the total revenue authorized for collection by both state and local governments does not exceed that amount which would have been authorized without such change.

Sec. 27. The revenue limit of Section 26 of this Article may be exceeded only if all of the following conditions are met: (1) The governor requests the legislature to declare an emergency; (2) the request is specific as to the nature of the emergency, the dollar amount of the emergency, and the method by which the emergency will be funded; and (3) the legislature thereafter declares an emergency in accordance with the specifics of the governor's request by a two-thirds vote of the members elected to and serving in each house. The emergency must be declared in accordance with this section prior to incurring any of the expenses which constitute the emergency request. The revenue limit may be exceeded only during the fiscal year for which the emergency is declared. In no event shall any part of the amount representing a refund under Section 26 of this Article be the subject of an emergency request.

Sec. 28. No expenses of state government shall be incurred in any fiscal year which exceed the sum of the revenue limit established in Sections 26 and 27 of this Article plus federal aid and any surplus from a previous fiscal year.

Sec. 29. The state is hereby prohibited from reducing the state financed proportion of the necessary costs of any existing activity or service required of units of Local Government by state law. A new activity or service or an increase in the level of any activity or service beyond that required by existing law shall not be required by the legislature or any state agency of units of Local Government, unless a state appropriation is made and disbursed to pay the unit of Local Government for any necessary increased costs. The provision of this section shall not apply to costs incurred pursuant to Article VI, Section 18.

Sec. 30. The proportion of total state spending paid to all units of Local Government, taken as a group, shall not be reduced below that proportion in effect in fiscal year 1978-79.

Sec. 31. Units of Local Government are hereby prohibited from levying any tax not authorized by law or charter when this section is ratified or from increasing the rate of an existing tax above that rate authorized by law or charter when this section is ratified, without the approval of a majority of the qualified electors of that unit of Local Government voting thereon. If the definition of the base of an existing tax is broadened, the maximum authorized rate of taxation on the new base in each unit of Local Government shall be reduced to yield the same estimated gross revenue as on the prior base. If the assessed valuation of property as finally equalized, excluding the value of new construction and improvements, increases by a larger percentage than the increase in the General Price Level from the previous year, the maximum authorized rate applied thereto in each unit of Local Government shall be reduced to yield the same gross revenue from existing property, adjusted for changes in the General Price Level, as could have been collected at the existing authorized rate on the prior assessed value.

The limitations of this section shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness or for the payment of assessments on contract obligations in anticipation of which bonds are issued which were authorized prior to the effective date of this amendment.

Sec. 32. Any taxpayer of the state shall have standing to bring suit in the Michigan State Court of Appeals to enforce the provisions of Sections 25 through 31, inclusive, of this Article and, if the suit is sustained, shall receive from the applicable unit of government his costs incurred in maintaining such suit.

Sec. 33. Definitions. The definitions of this section shall apply to Section 25 through 32 of Article IX, inclusive.

"Total State Revenues" includes all general and special revenues, excluding federal aid, as defined in the budget message of the governor for fiscal year 1978-1979. Total State Revenues shall exclude the amount of any credits based on actual tax liabilities or the imputed tax components of rental payments, but shall include the amount of any credits not related to actual tax liabilities. "Personal Income of Michigan" is the total income received by persons in Michigan from all sources, as defined and officially reported by the United States Department of Commerce or its successor agency. "Local Government" means any political subdivision of the state, including, but not restricted to, school districts, cities, villages, townships, charter townships, counties, charter counties, authorities created by the state, and authorities created by other units of local government. "General Price Level" means the Consumer Price Index for the United States as defined and officially reported by the United States Department of Labor or its successor agency.

Sec. 34. The Legislature shall implement the provisions of Sections 25 through 33, inclusive, of this Article.

Section 6. (New language capitalized) Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this constitution, voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds APPROVED BY THE ELECTORS or other evidences of indebtedness APPROVED BY THE ELECTORS or for the payment of assessments or contract obligations in anticipation of which bonds are issued APPROVED BY THE ELECTORS, which taxes may be imposed without limitation as to rate or amount; OR, SUBJECT TO THE PROVISIONS OF SECTIONS 25 THROUGH 34 OF THIS ARTICLE, to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

PROVISIONS OF EXISTING CONSTITUTION ALTERED OR ABROGATED BY THIS AMENDMENT IF ADOPTED
- ARTICLE IX, SECTION 6 -

Section 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this constitution, voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be imposed without limitation as to rate or amount; or to taxes imposed for any other purpose by the city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

APPENDIX 2

PROPSAL C (1976)

INITIATIVE PETITION
AMENDMENT TO THE CONSTITUTION

PROPOSED CONSTITUTIONAL AMENDMENT ADDING
SECTIONS 25, 26, 27, 28, 29, 30, AND 31 TO ARTICLE IX.

Sec. 25. There is hereby established a limit on the total amount of taxes which may be levied by the Legislature in any fiscal year on the taxpayers of this State. Effective with the first fiscal year beginning after the ratification of this Section, and for each fiscal year thereafter, the Legislature shall not impose taxes of any kind which, together with all other revenues of the State, federal aid excluded, will total more than 8.3% of the personal income of Michigan for the previous fiscal year or the average of personal income of Michigan for the previous five calendar years, whichever is greater. "Personal income of Michigan" means the total income received by persons in Michigan from all sources, as defined and officially reported by the United States Department of Commerce or its successor agency.

For any fiscal year, in the event that State revenues, excluding federal aid, do exceed 8.3% of the personal income of Michigan reported for the previous fiscal year or the average of personal income of Michigan for the previous five calendar years, whichever is greater, the excess shall be refunded pro rata on the income taxes annual returns filed following the close of such fiscal year.

The limitation of this Section shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness authorized under Sections 15 and 16 of this Article.

Sec. 26. The tax limitation of Section 25 of this Article may be exceeded only if all of the following conditions are met: (1) The Governor requests the Legislature to declare an emergency; (2) the request shall be specific as to the nature of the emergency, the dollar amount of the emergency, and the method by which the emergency will be funded; (3) upon receiving this request, the Legislature declares an emergency, in accordance with the specifics of the Governor's request, by a two-thirds vote of the members elected to and serving in each house. The emergency must be declared in accordance with this Section prior to incurring any of the expenses which constitute the specific emergency request. The tax limitation may be exceeded only for the fiscal year in which the emergency is declared; in the next and subsequent fiscal years the tax limitation of Section 25 of this Article shall again take effect. In no event shall any part of the amount representing a refund under Section 25 of this Article be the subject of any emergency request.

Sec. 27. No expenses of state government shall be incurred for any fiscal year which exceed in amount the revenue limitations imposed by Sections 25 and 26 of this Article.

Sec. 28. A new program or an increase in the level of service under an existing program shall not be required by the Legislature of units of local government, of authorities created by the state, or of political subdivisions of the state, unless a state appropriation is made and disbursed sufficient to pay the local unit of government, authority or political subdivision for the costs of the program. The provisions of this Section shall not apply to costs incurred pursuant to Article VI, Section 18.

Sec. 29. The proportion of state revenue paid to all units of local government, authorities created by the state, and political subdivisions of the state, taken as a group, shall not be reduced below that proportion in effect when this Section is adopted.

Sec. 30. Units of local government, authorities created by the state, and political subdivisions of the state are hereby prohibited from levying any tax not in existence when this Section is ratified or from increasing the rate or base of existing taxes beyond levels authorized when this Section is ratified, without the approval of a majority of the qualified electors of that local unit, authority or political subdivision voting thereon. The limitations of this Section shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidence of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued.

Sec. 31. The Legislature shall implement the provisions of Sections 25 through 30, inclusive, of this Article.